

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: ANIMALS

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GENERAL PROVISIONS

§ 90.01 HUMANE OFFICER.

For the purpose of enforcing the provisions of this chapter, the position of Humane Officer is hereby established at a salary to be fixed by the Board of Mayor and Aldermen. The Humane Officer will be responsible to the Board of Police Commissioners, and will be directly supervised by the Chief of Police.

('71 Code, § 4-22) (Ord. passed 12-17-63; Am. Ord. passed 7-23-68)

§ 90.02 HORSES ON STREETS AND COMMONS RESTRICTED.

No person shall, without necessity, ride or lead a horse on the side pavements or walks of any street, lane, or alley, or across any of the commons of the city.

('71 Code, § 4-1) Penalty, see § 90.99

Statutory reference:

Authority of city to regulate the keeping of horses, see R.S.A. 47:17(X)

§ 90.03 HITCHING ANIMALS TO OR NEAR TREES.

No person shall hitch any horse or other draft animal to any tree standing in any street, highway, or public place or shall so hitch any such horse, or other draft animal that it may do injury to any such trees.

('71 Code, § 4-2) Penalty, see § 90.99

§ 90.04 DOG FOULING PROHIBITION.

- (A) *Violation.* It shall be unlawful for any person owning, possessing or controlling a dog on any

sidewalk, street or public area or on any private property neither owned or occupied by said person to:

- (1) Fail to carry any article or means to remove any feces left by such dog; or
- (2) Fail to remove and dispose of any feces left by such dog in a manner consistent with law.

(B) *Enforcement.* This section shall be enforced only if the failure to appear without a means of removal or the failure to remove and dispose of said dog feces occurs in the presence of a law enforcement officer.

(C) *Exception.* This section shall not apply to any dog accompanying a person mentally or physically impaired and who because of such impairment is unable to comply with the requirements of this section.

('71 Code, § 17-25(a),(b),(d)) (Ord. passed 2-17-93; Am. Ord. passed 8-6-96)

Cross reference:

Citation penalties, see § 38.06

DOGS

§ 90.10 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AT LARGE. Off the premises of the owner and not under the control, at all times, of the owner or a member of his immediate family or a person of sufficient age and strength to effectively restrain the dog either by leash or chain.

DOG. Any canine animal, male and female, sexed or neutered.

OWNER. Any person, firm, association, or corporation owning, keeping, or harboring a dog.

('71 Code, § 4-21) (Ord. passed 12-17-63)

Statutory reference:

Authority of city to regulate the keeping of dogs and their running at large, require them to be licensed, and authorize the

destruction of those kept or running at large contrary to the ordinance, see R.S.A. 47:17 (XI)
Dogs, generally, R.S.A. Ch. 466

§ 90.11 LICENSE REQUIRED.

All dogs kept, harbored, or maintained by their owner or keeper in the city shall be licensed annually in

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accordance with the provisions of R.S.A. Ch. 466 at fees established as follows:

Neutered male/spayed female	\$7.50
Male/female	\$10.00
Senior citizen owner	
First dog	\$3.00
Group license	
Five or more dogs	\$20.00

('71 Code, § 4-13) (Ord. passed 10-16-62; Am. Ord. passed 6-3-03) Penalty, see § 90.99

§ 90.11.1 EXCLUSIONS FROM ANNUAL WARRANT LIST.

In compiling the annual list of owners of dog(s) who have not renewed their licenses pursuant to R.S.A. 466:14, the Office of the City Clerk may exclude from the list the names of owners or keepers whose dog(s), based upon city records, have been sold or are deceased at the time renewal of the license is required. The Office of the City Clerk may also exclude from the list the names of owners or keepers of dog(s) who, based upon city records, no longer reside in the city.

(Ord. passed 6-17-99) Penalty, see § 90.99

§ 90.12 RUNNING AT LARGE PROHIBITED.

(A) No owner or keeper of any dog shall permit such dog, whether licensed or unlicensed, to run at large within the city at any time.

(B) Notwithstanding anything in this section to the contrary, no person shall be compelled to keep any dog in his possession on a leash while in or upon any public street, alley, park, parkway, or other public place in the city, if the dog is securely confined in an automobile.

(C) Notwithstanding any definition to the contrary, a dog shall be deemed “at large” if that dog is on or being walked upon a public street, parking lot or facility, sidewalk, or right-of-way adjacent to a street and is not actually on a leash or chain or within a carrier which is in the possession of a person of sufficient strength and age to effectively restrain the dog.

('71 Code, § 4-23) (Ord. passed 12-17-63; Am. Ord. passed 4-4-00) Penalty, see § 90.99

Cross reference:

Citation penalties, see § 38.06

§ 90.13 [RESERVED].

(Previous section repealed on 6-5-00)

§ 90.14 LIABILITY FOR DAMAGES.

Should any dog which has been found to have damaged or destroyed personal property, the owner or keeper of said dog shall be liable for the damages caused after the case has been disposed of by the court and the owner or keeper found guilty of the charges preferred.

('71 Code, § 4-15) (Ord. passed 10-16-62)

§ 90.15 IMPOUNDMENT.

It shall be the duty of every police officer to apprehend any dog found running at large contrary to the provisions of § 90.12 of this chapter and to impound such dog in a suitable place.

('71 Code, § 4-24) (Ord. passed 12-17-63)

§ 90.16 NOTICE; REDEMPTION OF IMPOUNDED DOGS; FEES.

If an impounded dog has upon it the name or address of the owner, or such name or address is otherwise known, the Police Department shall notify the owner within 24 hours after seizure of such dog. Notice of impounded dog shall be in writing by registered mail, postage prepaid, and shall be construed as having been given at the time of posting thereof. If the dog impounded does not have the name or address of the owner, and if the owner is not otherwise known, then no notice shall be necessary.

('71 Code, § 4-25) (Ord. passed 12-17-63; Am. Ord. passed 2-15-77; Am. Ord. passed 4-3-84; Am. Ord. passed 6-5-90; Am. Ord. passed 10-1-96; Am. Ord. passed 11-28-00) Penalty, see § 90.99

§ 90.17 [RESERVED].

(Previous section repealed on 11-28-00)

§ 90.18 DISPOSITION OF UNCLAIMED DOGS.

Any dog which had been impounded by the Friends of the Manchester Animal Shelter and has not been redeemed by the owner shall be disposed of, by adoption or other appropriate manner, by the Friends of the Manchester Animal Shelter; provided, that any such dog shall be held for at least seven days after impounding, and in those cases where it is required that notice be given the owner, the dog shall be held for at least four days

after the required notice has been given.

('71 Code, § 4-27) (Ord. passed 12-17-63; Am. Ord. passed 6-5-00)

RABID ANIMALS

§ 90.30 DESTRUCTION OF RABID ANIMALS AUTHORIZED.

Any animal that is mad or rabid shall at once be destroyed by a representative of the Department of Health or the Police Department. Any animal which is found upon examination by a veterinarian of the department of health to be rabid shall be surrendered to the department of health by the person owning or having possession thereof and shall be destroyed by the Department of Health.

('71 Code, § 4-38) (Ord. passed 3-20-56)

Statutory reference:

Rabies Control, see R.S.A. 436:99 et seq.

Dogs which are a menace, nuisance, or vicious, see R.S.A. 466:31

§ 90.99 PENALTY.

(A) Any person who violates § 90.11 of this chapter shall be subject to the civil forfeiture penalty set forth in R.S.A. 466:13. Any person who fails to timely pay the aforementioned civil forfeiture penalty shall, upon conviction, be punished by a fine not to exceed the maximum allowed by R.S.A. 47:17 or other law for each offense.

(B) Any person who violates any other provision of this chapter for which no penalty is otherwise provided shall be subject to the penalty set forth in § 10.99 of this code.

('71 Code, § 17-25(c)) (Ord. passed 2-17-93; Am. Ord. passed 8-3-99)

CHAPTER 91: HEALTH AND SANITATION

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Cross-reference:

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GENERAL PROVISIONS

§ 91.00 HEALTH DEPARTMENT ESTABLISHED.

(A) Pursuant to Charter § 3.02 there is established a Health Department.

(B) *Department head.* The department head shall be the Health Officer who shall be appointed as provided by Charter § 3.03. The Health Officer shall have such authority and powers as are provided by law.

(C) *Composition.* The Health Department shall also include a Board of Health whose members shall be appointed as provided by Charter § 3.14 and the Board shall complete such duties and have such powers as are prescribed by federal, state and local law.

(D) *Duties.* The department shall be responsible for routinely and periodically assessing the public health of the community and recommending appropriate policies, ordinances and programs to improve the health of the community, shall investigate and control communicable diseases and shall complete environmental inspections and investigations necessary to protect the public health. The Health Department shall also be responsible for the provision of general school nursing services for Manchester school children in the school setting and shall perform such other duties as are prescribed by federal, state and local law.

(Ord. passed 11-4-98)

§ 91.01 DAY CARE FACILITIES; INSPECTIONS.

(A) Any person desiring to have the City Health Department inspect a day care facility, home, or other premises as a prerequisite for obtaining a State of New Hampshire license shall request such inspection on forms provided for this purpose by the City Health Department. ('71 Code, § 12-8)

(B) An inspection fee of \$30 for a family-type day care (less than or equal to six children) or \$50 for a day care center (more than six children) shall be paid to the City Health Department upon requesting a day care licensing inspection. A day care facility which holds a valid Class III food establishment permit from the City Health Department is exempt from the day care inspection fee. ('71 Code, § 12-9)

(C) Any person operating a day care facility in the City shall comply with the New Hampshire Child Care Program Licensing Rules He-C 4000.

(Ord. passed 3-19-85; Am. Ord. passed 9-4-01)

LEAD POISONING PREVENTION

§ 91.20 PURPOSE.

The purpose of this subchapter shall be to protect the health of residents of Manchester by ensuring that abrasive paint removal is conducted without creating a hazard to the health of children, occupants, or the general public.

('71 Code, § 12-20) (Ord. passed 1-17-89; Am. Ord. passed 10-7-97; Am. Ord. passed 9-4-01)

§ 91.21 REMOVAL OF PAINT; NOTIFICATION.

(A) *Notification.* The property owner or agent of a structure to receive abrasive paint removal shall provide written notification to property abutters and the City Health Department prior to initiating an abrasive removal project. Such notification shall be made at least three days prior to the start of the project and shall be on forms provided for this purpose by the City Health Department. ('71 Code, § 12-22)

(B) *Testing of paint to be removed.* All paint which will be subjected to abrasive paint removal shall be tested for lead content prior to the commencement of any abrasive paint removal. Results of all testing shall be provided to the Health Authority prior to the issuance of a permit for abrasive paint removal.

(C) *Work practices.* Work practices employed during abrasive paint removal shall be consistent with accepted industrial hygiene standards for personal protection, site preparation and shall always be employed as to not create a hazard to the public health through the release of lead containing dust.

(Ord. passed 1-17-89; Am. Ord. passed 10-7-97; Am. Ord. passed 9-4-01)

§ 91.22 [RESERVED].

(Previous section repealed on 10-7-97)

§ 91.23 RELATIONSHIP TO HOUSING CODE.

Nothing contained in this subchapter shall in any way conflict with or relieve the responsibility of a property owner to comply with § 150.069 or any other provisions of the Housing Code, Chapter 150 of this code of ordinances.

('71 Code, § 12-23) (Ord. passed 1-17-89; Am. Ord. passed 9-4-01)

Cross-reference:

Housing Code, see Ch. 150

SWIMMING AND BATHING FACILITIES

§ 91.35 APPLICABILITY.

This subchapter shall regulate the construction and operation of all swimming pools, recreational spas, hot tubs, and natural bathing areas except those facilities located appurtenant to single-family or duplex family residences. All such bathing facilities regulated by this subchapter shall be referred to herein as public pools or public spas.

('71 Code, § 12-30) (Ord. passed 6-5-90; Am. Ord. passed 9-4-01)

§ 91.36 DEFINITION.

For the purpose of this subchapter, **HEALTH AUTHORITY** shall mean the Health Officer of the city or his designated representative.

('71 Code, § 12-31) (Ord. passed 6-5-90; Am. Ord. passed 9-4-01)

§ 91.37 ANNUAL PERMIT REQUIRED.

No person, corporation, or other entity shall operate, maintain, or allow to be used, any public swimming pool, spa, or hot tub except when in possession of a valid permit issued by the Health Department. The permits shall be issued for an annual fee of \$175 for each indoor pool; or \$125 per outdoor pool or natural bathing place. Spa and hot tub permits will be issued at \$125 per tub or spa up to two units and \$100 for each additional unit at each site. No permit fee shall be charged for city facilities.

('71 Code, § 12-32) (Ord. passed 6-5-90; Am. Ord. passed 9-4-01)

§ 91.38 EXPIRATION OF PERMIT.

Except as otherwise stipulated in this chapter, any permit issued pursuant to this subchapter shall be valid for a one-year period and shall expire on the last day of April, annually. There shall be a \$25 late application fee for any permit renewal application received more than ten days after its expiration.

('71 Code, § 12-33) (Ord. passed 6-5-90; Am. Ord. passed 9-4-01)

§ 91.39 PERMIT TO BE POSTED.

Any permit issued pursuant to this subchapter shall be posted in a conspicuous place about the pool or spa.

('71 Code, § 12-34) (Ord. passed 6-5-90; Am. Ord. passed 9-4-01) Penalty, see § 10.99

§ 91.40 REVOCATION PROCEDURE.

Whenever the Health Authority shall find that any public pool or spa is not in compliance with the terms and conditions of this subchapter the Health Authority may cause the operating permit to be revoked or suspended by any or all of the following methods:

- (A) He may physically remove the permit from its posting.
- (B) He may notify the owner or operator of the pool in writing that the operating permit is revoked or suspended.
- (C) He may post a sign or signs conspicuously about the pool to the effect that the operating permit has been revoked.

('71 Code, § 12-35) (Ord. passed 6-5-90; Am. Ord. passed 9-4-01)

§ 91.41 INSPECTIONS.

All owners and operators of public pools and spas shall allow the Health Authority entry onto the pool premises at all reasonable times for the purposes of inspections and sample collection.

('71 Code, § 12-36) (Ord. passed 6-5-90; Am. Ord. passed 9-4-01)

§ 91.42 QUALITY OF WATER.

Public swimming pools, recreational spas, hot tubs, and natural bathing areas shall be maintained and operated at all times in accordance with New Hampshire Public Bathing Facility Rules, Env-Ws 1100. A copy of these regulations shall be on file at the City Health Department.

('71 Code, § 12-37) (Ord. passed 6-5-90; Am. Ord. passed 9-4-01) Penalty, see § 10.99

§ 91.43 REQUIRED EQUIPMENT.

(A) *Public pools.* All public pools shall be supplied at all times with the following items of equipment which shall be maintained in complete form and proper working order:

(1) Public pools using chlorine as a disinfectant shall be equipped with a positive displacement chlorinator which shall be maintained in operating condition at all times. Other systems of disinfection such as bormine, and the like, will be considered on an individual basis, capable of determining free, combined, and residual levels or concentrations of the disinfecting agent as well as measuring pH, alkalinity and cyanuric acid.

(2) One shepherd's crook with a minimum handle length of 12 feet.

(3) One ring buoy with a rope attached, the rope to be no less than 1/4-inch in diameter and in length one and one-half times the width of the pool or 50 feet, whichever is less.

(4) One backboard device for the transportation of persons with spinal injuries.

(5) One standard American Red Cross 24 unit first aid kit or its equivalent.

(B) *Public spas and hot tubs.* Public spas and hot tubs used by the public for recreational purposes shall be operated in accordance with the following standards:

(1) Adequate shower bath facilities shall be provided at all spa and hot tub facilities. Showering is required before use of the spa and hot tub.

(2) Disinfection shall be by continuous feed equipment with hypochlorite or bromine being the only acceptable disinfectants.

(3) Spa and tub surfaces and surrounding areas shall be smooth, easily cleanable, and maintained in good repair at all times.

('71 Code, § 12-38) (Ord. passed 6-5-90; Am. Ord. passed 9-4-01) Penalty, see § 10.99

§ 91.44 SWIMMER SAFETY.

In public pools, supervision of bathers shall be provided in accordance with the following standards:

(A) Where lifeguard service is provided, the lifeguard shall have satisfactorily completed a senior course of instruction in lifesaving and water safety equivalent to that offered by the American Red Cross or the YMCA.

(B) Where no lifeguard service is provided, a warning sign shall be placed in plain view which shall state "WARNING - NO LIFEGUARD ON DUTY" with clearly legible letters at least four inches in height.

('71 Code, § 12-39) (Ord. passed 6-5-90; Am. Ord. passed 9-4-01) Penalty, see § 10.99

MOSQUITO CONTROL

§ 91.50 PURPOSE.

It is the intent of these regulations to control and reduce the mosquito population of the City of Manchester by removing, draining, treating, altering or otherwise eliminating all breeding sources for mosquitoes.

(Ord. passed 9-4-01)

§ 91.51 DUTY TO MAINTAIN PREMISES FREE OF MOSQUITO BREEDING CONDITIONS.

The owner or person in control of any piece of property shall at all times maintain the premises free of any barrel, tire, tub, swimming pool, ornamental pool, or any other artificial water receptacle, or shall treat and maintain such receptacle in a manner as to prevent the breeding of mosquitoes.

(Ord. passed 9-4-01) Penalty, see § 10.99

SOLID WASTE AND LITTERING

§ 91.60 PURPOSE.

The purpose of this subchapter shall be to ensure that solid waste and litter is handled in a manner as to protect the public health, safety and welfare of the community.

(Ord. passed 4-16-02)

§ 91.61 ENFORCEMENT AUTHORITY.

(A) *Health Authority.* The Health Authority is hereby authorized and empowered to enforce the requirements of this chapter.

(B) *Authority is additional.* The enforcement authority established herein is in addition to, and shall not abolish or restrict, the authority currently possessed by any city department especially, but not limited to, the Police Department to enforce the requirements of this chapter.

(Ord. passed 4-16-02)

§ 91.62 REGULATIONS AUTHORIZED.

The Public Works Director and the Health Officer are hereby authorized to promulgate such rules and regulations as may be necessary and convenient to effectuate the purposes and requirements of this chapter.

(Ord. passed 4-16-02)

§ 91.63 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AUTHORIZED PRIVATE RECEPTACLE. Litter storage and collection receptacle as required and authorized by this chapter.

DOWNTOWN TOTOR COLLECTION ZONE. An area bounded by Dow Street and Myrtle Street at the north, Lake Avenue and West Auburn Street at the south, Chestnut Street at the east and Hampshire Lane at the west.

DUMPSTER. A large sturdy metal container, with a capacity exceeding two cubic yards, for the collection of rubbish or garbage, designed to be emptied or transported to a dump by a specially designed truck.

GARBAGE. All putrescible waste material including, but not limited to, wastes resulting from the handling, preparation, cooking and consumption of food. GARBAGE shall not include market, industrial, yard, hazardous, infectious, and/or radioactive waste.

HEALTH AUTHORITY. The Health Officer of the city or his designated representatives.

LITTER. Garbage and rubbish as defined herein and all other waste material.

MULTI-FAMILY DWELLING. Any building or structure used and occupied for human habitation or intended to be so used which contains more than two suites of one or more rooms each suite having facilities for regular cooking.

PARK. Any park, reservation, playground, beach, recreation center or other public area owned or used by the city and devoted to active or passive recreation.

PRIVATE PREMISES. Any dwelling, house, building, or other structure designed or used, either wholly or in part, for private purposes and regardless of whether or not the premises are inhabited or temporarily or continuously vacant. Such premises shall include any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox belonging or appurtenant thereto.

PUBLIC PLACE. Any public building, park, square, space, grounds, street, sidewalk, boulevard, alley or other public way.

RUBBISH. All nonputrescible waste material including, but not limited to, paper, cigarettes, cardboard,

cans, wood, glass, bedding, and crockery. **RUBBISH** shall not include market, industrial, yard, hazardous, infectious, and/or radioactive waste.

TOTER. A garbage/rubbish container with a fixed, hinged lid, wheels and a horizontal handle. The container must meet the approval of the Public Works Director and is typically 65 or 95 gallons in size.

VEHICLE. Any device in, upon, or by which any person or property is or may be transported or drawn on a street or highway including devices used exclusively on stationary rails or tracks.

YARD WASTE. Leaves, grass clippings, garden debris, small or chipped branches (not exceeding three inches in diameter and three feet in length), and Christmas trees.

(Ord. passed 4-16-02; Am. Ord. passed 11-5-03)

§ 91.64 PLACEMENT OF GARBAGE, RUBBISH, OR YARD WASTE FOR COLLECTION.

(A) The Highway Department will not collect garbage, rubbish, and/or yard waste unless it has been properly prepared and placed in the right-of-way (at the curb or back street) as required by departmental regulations.

(B) No garbage, rubbish, or yard waste shall be placed for collection prior to 4:00 p.m. of the day preceding the collection day that has been designated by the Department for that area of the city. Empty containers shall be removed from the right-of-way, and stored on the property to which they belong, no later than 6:00 p.m. on the day of collection. Garbage, rubbish, or yard waste that has not been collected because it has not been properly prepared or placed shall also be removed from the right-of-way, and properly stored or otherwise disposed of, no later than 6:00 p.m. on the day that it was to have been collected.

(Ord. passed 4-16-02) Penalty, see § 91.76

§ 91.65 PROHIBITED DEPOSITS.

(A) No materials resulting from the construction or alteration of any structure shall be placed for collection. All such materials shall be properly disposed of by the property owner or contractor responsible for the construction or alteration.

(B) No market, industrial, hazardous, infectious or radioactive waste, nor anything contaminated by any such waste, shall be placed for collection. All such waste shall be properly disposed of in accord with all applicable laws, ordinances, rules and regulations.

(Ord. passed 4-16-02) Penalty, see § 91.76

§ 91.66 CONTAINERS.

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(A) Garbage/rubbish containers must be of metal or plastic construction with handles for lifting and a cover to keep moisture out.

(B) The capacity of the container shall not be over 33 gallons and the weight, including contents, shall not be over 75 pounds.

(C) Plastic bags, sold commercially for garbage/rubbish, between 13 gallons (minimum size) and 33 gallons (maximum) size are acceptable containers when properly sealed at the top.

(D) Toters are an acceptable container within the Downtown Toter Collection Zone and for residential dwellings.

(E) The owner(s) of any multi-family dwelling shall supply a dumpster or toters sufficient to provide storage for all rubbish and garbage generated within the multi-family dwelling. Dumpsters will not be emptied or serviced by the Manchester Highway Department or public works.

(Ord. passed 4-16-02; Am. Ord. passed 11-5-03) Penalty, see § 91.76

§ 91.67 VOLUME.

The maximum volume of garbage/rubbish placed for collection shall be limited to twice the volume of material that is normally accommodated in the available containers on the property.

(Ord. passed 4-16-02) Penalty, see § 91.76

§ 91.68 DEPOSIT OF LITTER.

(A) No one shall deposit in, or sweep into, any gutter, street, alley, sewer or other public place any accumulation of litter from any building, lot, public or private sidewalk, or driveway.

(B) No one shall deposit, throw, or sweep any litter in any place or manner that would allow the elements to carry or move it to any street, sidewalk, alley, sewer or other public place or any occupied premises.

(C) No litter shall be deposited or thrown upon any street, sidewalk, or other public place except in public receptacles, authorized private receptacles, or an official city waste disposal facility.

(D) Litter placed in public receptacles or authorized private receptacles shall be deposited so as to prevent it from being moved by the elements to any street, sidewalk, other public place or private property.

(Ord. passed 4-16-02) Penalty, see § 91.76

§ 91.69 DUTY TO MAINTAIN PREMISES FREE OF LITTER.

The owner or person in control of any private premises shall at all times, maintain the premises free of

litter. This section shall not prohibit the storage, in approved containers, of litter awaiting placement for collection.

(Ord. passed 4-16-02) Penalty, see § 91.76

§ 91.70 LITTER ON VACANT PROPERTY.

No person shall deposit or throw litter on any vacant or open private property whether or not owned by that person.

(Ord. passed 4-16-02) Penalty, see § 91.76

§ 91.71 LITTER REMOVAL BY CITY.

(A) *Notice to remove.* The Health Authority may require the owner of any vacant or open private property, or the agent of such owner, to properly dispose of any litter on the property which is dangerous to public health, safety, or welfare. Notice of any such requirement shall be given by registered mail to the last-known address of the owner or agent.

(B) *Action upon noncompliance.* Upon the failure, neglect or refusal of any owner or agent so notified to properly dispose of litter, the Health Authority may, in addition to any other remedy provided by law, cause the litter to be removed in accordance with, and pursuant to the authority granted by R.S.A. 147:7-b or its statutory successor.

(Ord. passed 4-16-02) Penalty, see § 91.76

§ 91.72 THROWING LITTER FROM VEHICLES PROHIBITED.

(A) No person in a vehicle shall throw or deposit litter on any street or other public place or private property.

(B) No vehicle shall be driven or moved anywhere within the city unless it is constructed or loaded to prevent any portion of the load or contents or any litter from being blown or deposited on any street, alley or other public place or private property. No vehicle shall be permitted to deposit any litter, mud, dirt, sticky substance, or foreign matter on any street, alley or other public place.

(Ord. passed 4-16-02) Penalty, see § 91.76

§ 91.73 LITTERING IN PARKS.

No litter shall be deposited on, or thrown to, the ground of any city park. All litter shall be properly

disposed of in a receptacle provided for that purpose. Should there be no receptacle, or should all of the receptacles be full, the person responsible for the litter shall deposit it elsewhere.

(Ord. passed 4-16-02) Penalty, see § 91.76

§ 91.74 LITTERING BODIES OF WATER PROHIBITED.

No litter shall be deposited in any fountain, pond, lake, stream, marsh, or other body of water within the city.

(Ord. passed 4-16-02) Penalty, see § 91.76

§ 91.75 POSTING NOTICES.

No one shall post or affix any notice, poster, or other paper or device calculated to attract the attention of the public on any structure, lamppost, public utility pole, or tree except as permitted or required by law.

(Ord. passed 4-16-02) Penalty, see § 91.76

§ 91.76 PENALTY.

Any person, firm, or corporation who violates any provision of this chapter for which another penalty is not specifically provided shall be subject to a fine not exceeding the maximum allowed by R.S.A. 47:17 or other law. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(Ord. passed 4-16-02)

CHAPTER 92: FIRE PREVENTION

Section

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GENERAL PROVISIONS

§ 92.00 FIRE DEPARTMENT ESTABLISHED.

(A) Pursuant to Charter § 3.02 there is established a Fire Department.

(B) *Department head.* The department head shall be the Fire Chief who shall be appointed as provided by Charter § 3.03.

(C) *Composition.* The Fire Department shall also include a Fire Commission consisting of five members who shall be appointed as provided by Charter § 3.14, and the commission shall have those duties and responsibilities as are assigned by the Charter.

(D) *Duties.* The Fire Department shall be responsible for providing properly trained personnel for, and high-quality emergency response to, any situation which threatens the life, safety and well-being of people and property in the city including, but not limited to, fires, hazardous materials incidents, rescue and for emergency medical incidents and disasters. The Fire Department shall also be responsible for providing current information on safety and fire prevention in the schools, workplace and for the general citizenry and for all municipal workers, communications systems city-wide and the municipal cable plant and shall perform such other duties as are prescribed by federal, state and local law.

(Ord. passed 11-4-98)

§ 92.01 DEFINITION.

Wherever the word **MUNICIPALITY** is used in the Fire Prevention Code adopted by § 92.05 of this chapter, it shall be held to mean the City of Manchester.

(Ord. passed 2-7-95)

§ 92.02 MODIFICATION.

The Chief of the Fire Department or his designee shall have power to modify any of the provisions of the Fire Prevention Code adopted by § 92.05 of this chapter upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification, when granted or allowed, and the decision of the Chief of the Fire

Department thereon shall be entered upon the records of the Department and a signed copy shall be furnished the applicant.

(Ord. passed 2-7-95)

§ 92.03 INTERFERENCE WITH EQUIPMENT.

No person shall wantonly or knowingly injure any of the fire apparatus owned by the city or provided for the extinguishment of fire, or shall ride or drive any vehicle over or across any hose or other apparatus in use at any fire or upon any alarm of fire, or shall place any vehicle or allow any vehicle in their charge to stand within 300 feet of any piece of fire apparatus while it is in service, or shall manage or control any vehicle in his charge so that it shall follow any moving piece of fire apparatus while in service at a distance of less than 300 feet, or in such manner as in any way to interfere with its speed or freedom of movement. The Fire Prevention Code adopted by § 92.05 of this chapter shall be enforced by the Chief of the Fire Department.

(Ord. passed 2-7-95) Penalty, see § 92.99

§ 92.04 COLLECTION OF FEES.

(A) The Chief of the Fire Department or his designee shall be empowered to impose a late filing penalty due to the late filing of any business plan, certification, or inventory. The amount of such penalty shall be 25% of the fee for such filing. Nonpayment of the fee and penalty shall incur interest on the amount of the billing starting 30 days after the date issued.

(B) If fees imposed under this chapter have not been paid within 120 calendar days, the Chief of the Fire Department shall be empowered to impose liens and/or revoke permits or disconnect fire alarm service which shall result in the revocation of the certificate of occupancy for the building.

(Ord. passed 2-7-95)

§ 92.05 ADOPTION OF FIRE PREVENTION CODE.

A certain document, three copies of each which are on file in the office of the City Clerk of the City of Manchester, being marked and designated as the International Fire Code, 2000 Edition, including Appendix Chapters B, C, D, F, and G, (see International Fire Code, 2000 Edition § 101.2.1), as published by the International Code Council, be and is hereby adopted as the code of the City of Manchester for regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Manchester and provided for the issuance of permits for hazardous uses or operations; and each and all of the regulations, provisions, conditions and terms of such International Fire Code, 2000 Edition, published by the International Code Council, on file in the office of the City Clerk and hereby referred to, adopted and made part hereof as if fully set out in this chapter, with the

additions, insertions, deletions and changes prescribed in § 2 of the ordinance adopted September 4, 2001.

(Ord. passed 9-4-01)

§ 92.06 APPLICATION FOR PERMIT.

All permits required by the fire code adopted by § 92.05 shall be written permits. All permits must be obtained from the Fire Prevention Bureau. All permits shall specify the nature of the proposed activities and conditions or requirements attached thereto. The review of all life safety code plans shall be performed by the Fire Prevention Bureau. All inspections required by the Department of Health and Welfare shall be requested from the Fire Prevention Bureau, and a life safety compliance report will be completed by the Fire Inspector.

(Ord. passed 2-7-95)

§ 92.07 EMERGENCY FIRE LANES.

(A) It shall be unlawful to park a motor vehicle on or otherwise obstruct, at any time, a clearly designated fire lane.

(B) The marking of fire lanes on private property, devoted to public use, shall be approved by the Chief of the Fire Prevention Bureau or his designee.

(C) Any motor vehicle parked in violation of division (A) of this section may be towed by an agent either of the Police Department or of the Fire Department, or by an independent contractor engaged by the Police Department or the Fire Department if directed to do so by an agent either of the Police Department or of the Fire Department. Any vehicle towed shall be stored and released to the owner only upon payment of the cost of towing.

(Ord. passed 6-19-84; Am. Ord. passed 4-16-85; Am. Ord. passed 6-4-85; Am. Ord. passed 5-3-88; Am. Ord. passed 2-7-95) Penalty, see § 92.99

Cross-reference:

Traffic code, see Title VII

§ 92.08 INSPECTOR OF PETROLEUM; APPOINTMENT.

(A) The Board of Mayor and Alderman shall biennially, in the month of January, elect one Inspector of Petroleum.

(B) The duties of the Inspector of Petroleum shall be the same as is prescribed for the duties of such officers in R.S.A. Ch. 339.

(C) The Inspector of Petroleum shall receive, as compensation for his services, the fee of \$2.50 for

each tank car of petroleum or its products by him inspected, and the same shall be paid by the persons requiring his services.

(Ord. passed 2-7-95)

§ 92.09 FEES.

(A) The review of any National Fire Protection Association Life Safety Code 101 plan shall be conducted by the Fire Department at a fee of \$50 per hour required with the minimum fee being \$50.

(B) An application for any permit to be issued by the Fire Department or the request of a life safety compliance report, shall be accompanied by a fee of \$100. Permits are renewable every year. Permits are not transferable.

(C) An application for any permit to be issued by the Fire Department or the request of a life safety compliance report for day care providers caring for four to 12 children, shall be accompanied by a fee of \$25. Permits are renewable every three years, and are not transferable.

(D) The review of a fire safety site plan shall be performed by the Fire Department at a charge of \$50 per hour required with the minimum fee being \$50.

(E) The review of a special hazards system plan shall be performed by the Fire Department at a charge of \$1 per device with a minimum fee being \$50.

(F) *Exemption.* Inspections relating to the licensing of foster homes for the state shall be exempt from the fees.

(G) *Commercial occupancies.* All commercial occupancies located in the city shall be inspected annually to insure compliance with the fire code adopted by § 92.05 and NFPA Life Safety Code #101. Inspections shall be performed by Fire Department personnel on an annual basis. There shall be no charge for this inspection.

(Ord. passed 6-4-85; Am. Ord. passed 5-16-89; Am. Ord. passed 5-22-90; Am. Ord. passed 9-4-91; Am. Ord. passed 6-4-91; Am. Ord. passed 2-7-95; Am. Ord. passed 9-5-95) Penalty, see § 92.99

§ 92.10 UNVENTED SPACE HEATERS.

(A) *Purpose.* This section is enacted to promote the health, safety, and general welfare of the community by regulating the sale, distribution, and use of unvented space heaters.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

OCCUPIED STRUCTURE. Any structure, vehicle, boat, or place adapted for overnight accommodation of persons, or for carrying on a business therein, whether or not a person is actually present and

includes structures appurtenant to occupied structures and seasonal dwellings whether vacant or occupied.

UNVENTED SPACE HEATERS. Any heating appliance, either wick, wickless, or pot burner type, which uses oil, gas, or kerosene for fuel, is either stationary or portable, and the products of combustion of which are not directly conducted to the outside of the building via chimney connect or pipe.

(C) *Use.*

(1) No unvented space heater shall be installed or used in an occupied structure.

(2) Unvented space heaters may be installed and used in an unoccupied structure only by permit.

(D) *Permit required; fee.* No unvented space heater shall be sold, distributed, or used in the city without first obtaining a permit therefore from the Chief of the Fire Department or his designee. The fee for each permit to use an unvented space heater in an unoccupied structure shall be \$2.

(E) *Exceptions.* Nothing in this section shall prevent the sale, installation, or use of the following heaters:

(1) The flameless catalyst type heaters.

(2) Unvented space heaters used as antiques or curios, provided they are rendered inoperative.

(3) The salamander-type heaters, provided that they are used solely in accordance with the standards contained in Chapter 4-4.7 of the National Fire Protection Association, Number 31.

(4) The salamander-type heaters for temporary use in an unoccupied structure.

(Ord. passed 4-5-83; Am. Ord. passed 2-7-95) Penalty, see § 92.99

FIRE ALARMS

§ 92.20 ALARM UNDER CONTROL OF CHIEF OF FIRE DEPARTMENT.

The fire alarm system in the city shall be considered as an apparatus connected with the Fire Department, and shall be under the full control of the Chief of the Fire Department or his designee as the apparatus commonly used by the Fire Department for the extinguishment of fires in the city.

(Ord. passed 2-7-95)

Cross-reference:

Alarms, see Ch. 93

§ 92.21 MAINTENANCE OF ALARM SYSTEM.

The Chief of the Fire Department shall have authority to appoint a Fire Communications Chief whose duty it shall be, under the direction and control of the Chief of the Fire Department, to keep the fire alarm system, in good condition, ready for use at any time.

(Ord. passed 2-7-95) Penalty, see § 92.99

§ 92.22 ALARM INSTALLATION; INSPECTIONS.

(A) The review of an alarm system plan shall be performed by the Fire Department at a charge of \$1 per device with the minimum fee being \$50.

(B) The review of a sprinkler system plan shall be performed by the Fire Department at a charge of \$1 per device with a minimum fee being \$50.

(C) The initial inspection of an installed fire alarm system shall be performed by the Fire Department at a charge of \$50 per person per hour required with the minimum fee being \$100.

(D) Reinspections of installed alarm systems shall be billed at a rate of \$150 per person per hour with a minimum charge of \$300.

(Ord. passed 2-7-95; Am. Ord. passed 4-16-02)

§ 92.23 DAMAGING OR INTERFERING WITH FIRE ALARM SYSTEM.

No person shall willfully deface, injure, or destroy the fire alarm system or any portion thereof, or willfully interfere with or do anything to prevent or delay the proper and timely use thereof.

(Ord. passed 2-7-95) Penalty, see § 92.99

§ 92.24 TAMPERING WITH ALARM BOXES.

No person shall open any alarm box connected with the fire alarm system except by the authority of the Chief of the Fire Department. Those individuals that have been authorized under the Fire Department Listed Agent Program, will be charged an initial fee of \$25 and an annual renewal fee of \$25. This renewal will take effect on January 1 of each year.

(Ord. passed 2-7-95; Am. Ord. passed 4-6-04) Penalty, see § 92.99

§ 92.25 ANNUAL FEES.

(A) All master fire alarm box owners shall pay an annual user fee for each calendar year in the amount of \$480. New systems installed shall be charged a pro rata amount of \$40 per month or part of a month until December 31 of the installation year after which the annual fee will take effect on January 1.

(B) All telephone dialer alarm systems connected to the Fire Department shall pay an annual fee in each calendar year of \$25 per year. New systems installed shall be charged a pro rata amount of \$6.25 for each quarter year until December 31 of the installation year after which the annual fee will take effect on January 1.

(C) All properties connected directly to the Fire Department through an Underwriters Laboratory approved central station shall pay the city an initial connection fee of \$100 and an annual monitoring fee of \$100. New systems connected shall pay the initial fee plus a pro rata amount of \$8.33 for each month remaining in the calendar year until the following January 1, at which time, they shall pay the full annual fee. All initial and annual fees shall be paid to the city by the central station providing service to the property. The central station shall be allowed to charge an administrative fee in excess of the established initial and annual fees to be retained by the central station in order to cover expenses incurred in the administration of this requirement.

(D) The Chief of the Fire Department shall issue a permit to approved Central Stations for the monitoring of fire alarm systems. Permits will be issued annually at the rate of \$1,000.

(Ord. passed 2-7-95; Am. Ord. passed 11-5-03)

§ 92.26 FALSE ALARM CHARGES.

Any property owner having a fire alarm system on his or its premises and installed to warn occupants of fire, which causes a response by the Fire Department, shall pay the city a charge for false alarms to which the Fire Department responds in each calendar year as follows:

(A) The first five false alarms in excess of the limit, the amount of \$50 per alarm.

(B) All false alarms in excess of five above the limit, the amount of \$100 per alarm.

(C) The false alarm limits shall be based on the number of alarm-initiating devices connected to the fire alarm system as follows:

<i>Devices</i>	<i>Limit of False Alarms Per Year</i>
1 - 125	5
126 - 250	10
251 - 375	15
376 or more	20

(Ord. passed 2-7-95)

§ 92.27 RULES AND REGULATIONS.

The Fire Communications Chief, under the direction of the Chief of the Fire Department shall maintain the “Manchester Fire Department Rules and Regulations for Fire Alarm Systems” based on the current National Fire Protection Association (NFPA) Codes. Such rules and regulations shall govern the installation, maintenance, and operation of all fire alarm systems.

(Ord. passed 2-7-95)

§ 92.28 LIABILITY LIMITED.

The Fire Department of the city shall take every reasonable precaution to assure that the alarm signals and alarm messages received by the Fire Department are given appropriate attention and are acted upon with dispatch. Nevertheless, the Fire Department shall not be liable for any defects in operation of alarm devices, nor for the failure or neglect of any person in connection with the installation and operation of alarm signals and prerecorded alarm messages, or the receipt or relaying of such signals and messages. In the event that the Fire Department finds it necessary to disconnect an alarm device, the Fire Department shall incur no liability by such action.

(Ord. passed 2-7-95)

EMERGENCY MEDICAL SERVICE

§ 92.40 PROVISION OF EMERGENCY MEDICAL SERVICE.

The City Fire Department under the supervision of the Chief of the Fire Department shall provide by contract or otherwise medical services within the city. The medical services shall be provided in life-threatening, emergency and non-emergency situations which require the assessment, treatment, and transportation of the sick and injured.

(Ord. passed 2-7-95)

§ 92.41 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

EMERGENCY MEDICAL SERVICES (EMS). The complete chain of human and physical resources

that provide patient care in cases of sudden illness or injury.

MEDICAL SERVICES. The pre-hospital assessment and treatment of the sick and injured patient; also the care of patients requiring nonemergency and transfer services between healthcare facilities.

OTHER HEALTHCARE FACILITIES. Includes hospitals, extended nursing care, hospital satellite, and independent medical care facilities.

PRE-ARRIVAL INSTRUCTION. A very basic, common sense approach to offering the caller for emergency medical services the instructions of what to do prior to the arrival of pre-hospital assistance.

TRIAGING. To assign victims of a mass casualty incident a priority for care and transportation based upon degree of illness or injury and an individual's relative salvageability in a given situation.

(Ord. passed 2-7-95)

§ 92.42 EMS COMMUNICATIONS.

The Fire Department may provide emergency medical services where it finds it appropriate to act as first responder. The Fire Department personnel may perform the basic skills necessary to assess, stabilize, and treat the injuries and medical conditions of any person who is in need of emergency care.

(Ord. passed 2-7-95)

§ 92.43 AMBULANCE TRANSPORTATION SERVICES.

The Fire Department shall provide by contract or otherwise ambulance transportation services within the city. The services shall be provided in emergency, nonemergency, and transfer incidents which require the transportation of persons in need of transportation to hospitals and other healthcare facilities. Transportation may also occur interfacility.

(Ord. passed 2-7-95)

§ 92.44 COMMAND AT SCENE OF MEDICAL EMERGENCIES.

The Fire Department shall institute the incident command system at the scene of every emergency medical incident. The incident commander may have responsibility for assuming an effective position, transmitting a brief initial radio report, evaluation of the situation, the safety of personnel, coordination of services, requests for additional resources. A continuous review and evaluation of efforts must be conducted.

(Ord. passed 2-7-95)

§ 92.45 AIR MEDICAL SERVICES.

The Fire Department shall work with area air medical services to establish operating procedures for delivery of service within the city limits.

(Ord. passed 2-7-95)

§ 92.46 LAWS AND REGULATIONS OF THE EMS.

The Fire Department shall abide by the rules, regulations, and administrative guidelines set forth in RAS 151-B, He-P 1200 and He-P 1210 governing emergency medical services.

(Ord. passed 2-7-95) Penalty, see § 92.99

§ 92.47 FEES.

The Board of Mayor and Aldermen may establish a fee structure for the provision of emergency medical services. These fees shall be charged for all services requiring a response from the Department. Services include but are not limited to communications, dispatching, first responder program, and ambulance transportation.

(Ord. passed 2-7-95)

§ 92.48 EMS IN MASS CASUALTY.

The Fire Department shall develop and maintain the policies and procedures to provide effective medical care and resources in the event of a mass casualty disaster.

(Ord. passed 2-7-95)

§ 92.49 REIMBURSEMENT FOR SERVICES.

It is hereby declared to be the policy of the city that recovery of expenses incurred by the Fire Department shall be the responsibility of the persons which result in the Department's response. The persons responsible for the response shall be liable if, in the judgment of the court, the individual negligently operated a motor vehicle, boat OHRV, or aircraft, while under the influence of an alcoholic beverage or controlled substance; takes another person hostage, or threatens to harm self or another; or recklessly or intentionally creates a situation requiring a response from the Fire Department.

(Ord. passed 2-7-95)

RESCUE SERVICES

§ 92.60 PROVISION FOR RESCUE SERVICES.

The City Fire Department under the supervision of the Chief of the Fire Department may provide technical rescue services within the city.

(Ord. passed 2-7-95)

§ 92.61 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

OHRV. Off-highway recreational vehicle.

RESCUE. The saving of a life from fire or accident; removing a victim from an untenable or unhealthy atmosphere or situation.

TECHNICAL RESCUE. Any rescue requiring the specialized knowledge, skill, and equipment to complete.

(Ord. passed 2-7-95)

§ 92.62 FEES FOR TECHNICAL RESCUE SERVICES.

There shall be a fee of \$250 per hour or any portion thereof for any technical rescue. Costs include but are not limited to labor and materials.

(Ord. passed 2-7-95)

§ 92.63 REIMBURSEMENT FOR RESCUE SERVICES.

It is hereby declared to be the policy of the city that recovery of expenses incurred by the Fire Department shall be the responsibility of the persons which result in the Department's response. The persons responsible for the response shall be liable if, in the judgment of the court, the individual negligently operated a motor vehicle, boat OHRV, or aircraft while under the influence of an alcoholic beverage or controlled substance; takes another persons hostage or threatens to harm self or another; or recklessly or intentionally

creates a situation requiring a response from the Fire Department.

(Ord. passed 2-7-95)

HAZARDOUS MATERIALS

§ 92.70 POLICY.

It is hereby declared to be the policy of the city that all costs incurred by the city for the emergency response, remediation, and cleanup of any release of a hazardous materials shall be borne by the responsible party.

(Ord. passed 2-7-95)

§ 92.71 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CLEANUP. The control, containment, removal, or neutralization of any released hazardous material for the purpose of promoting or protecting public health or safety.

HAZARDOUS MATERIAL. Any substance or material in such quantity and form which may pose a risk to health and safety or property, which may include but is not limited to, explosives, radioactive materials, etiologic agents, biological material, flammable liquids or solids, combustible liquids or solids, poisons, oxidizing or corrosive materials, and compressed gasses which are listed by the Materials Transportation Bureau of the United States Department of Transportation in Title 49 of the Code of Federal Regulations and any amendment thereto.

RELEASE. The uncontrolled, improper or unsafe release, discharge, or escape of any hazardous material to any place or in any manner which poses an actual or potential threat to any person, property, wildlife, or the environment.

RESPONSIBLE PARTY. Any individual, partnership, corporation, association, trust, or other entity partially or solely responsible for the release of any hazardous material within the city.

(Ord. passed 2-7-95)

§ 92.72 NOTIFICATION; CLEANUP REQUIRED.

The Fire Department shall immediately be notified of any release of any hazardous material within the city. At the same time, the responsible party or parties shall take all proper measures reasonably necessary and

available to stop or mitigate the release and clean up the affected area.

(Ord. passed 2-7-95) Penalty, see § 92.99

§ 92.73 COST RECOVERY.

(A) Upon the completion of any cleanup in which any city resources are used, all costs of the cleanup shall be itemized by each city department involved including the Fire Department. Such costs shall include, but are not limited to, the cost of cleaning, repair, and restoration or replacement of any city material or equipment used in the cleanup, the labor costs incurred by city departments participating in the remediation effort and ensuing cleanup, the costs of any illness or injury sustained by any city employee who participated in the remediation effort and cleanup, and the costs of all contracted services utilized in the cleanup.

(B) Upon receipt of these itemizations (including its own), but in no event later than 60 days from the date of the release, the Fire Department shall bill the full costs of the cleanup to the responsible party or parties. The bill shall include a description of the costs incurred. Bills for less than the full amount of these costs shall be allowed provided that the responsible party is advised of the reason therefore and the approximate date by which it can expect to receive a complete bill.

(C) Each responsible party shall be jointly and severally liable to the city for the costs of the cleanup for which they are responsible. Such costs may be collected by any lawful means including, but not limited to, appropriate court proceedings. All funds received from responsible parties shall be forwarded to the Finance Officer for deposit in the city treasury.

(D) Any and all costs recovered from a responsible party shall be separate from and in addition to any penalty or fine that may be assessed for any violation of any provision of this subchapter.

(Ord. passed 2-7-95)

§ 92.74 INSPECTION FEES.

(A) All businesses required to possess a hazardous materials user permit shall be subject to annual inspections by the City Fire Department. The cost of these inspections shall be \$100 for the first hour, and \$100 for every hour thereafter. The minimum fee for hazardous materials inspections shall be \$100.

(B) All businesses located within the city that are required by federal law to comply with SARA 1986 reporting regulations shall acquire a hazardous materials user permit from the Fire Department. Under the terms of this permit, businesses will be required to file a business plan with the Fire Department detailing the principals of their respective organizations,

disclose insurance carriers, and file a contingency plan with a facility map and a city approved remediation contractor. All documents germane to hazardous materials shall be maintained and stored in a Knox locker, located in the primary entrance to the facility. The fee for the hazardous materials user permit for each motor vehicle fueling stations shall be set at \$100. The fee for the hazardous materials user permit for all other

business will be computed as follows:

(1) *Range determination:* For the purposes of this subchapter, each business in the city which is required to have a hazardous materials user permit as detailed in division (A) of this section shall be assigned a “range” consisting of a “range number” and a “range letter” determined as follows:

(a) *Range number.* The range number of a business shall be based on the maximum quantity of all hazardous materials present on the business premises at any one time in accordance with the following schedule:

<i>Number Range</i>	<i>Total Quantities</i>		
	<i>Gasses (cubic feet)</i>	<i>Liquids (gallons)</i>	<i>Solids (pounds)</i>
1	200 - 1,000	55 - 1,000	500 - 1,000
2	1,001 - 5,000	1,001 - 5,000	1,001 - 5,000
3	5,001 - 10,000	5,001 - 10,000	5,001 - 10,000
4	Over 10,000	Over 10,000	Over 10,000

(b) *Range letter.* The range letter of a business shall be based on the total number of all hazardous materials listed on the inventory of the business which is submitted to the city in accordance with the following schedule:

<i>Letter Range</i>	<i>Total Number of Materials</i>
A	1 - 2
B	3 - 5
C	6 - 9
D	10 - 20
E	Over 20

(c) The range numbers of gasses, solids and liquids on the business premises, shall be computed separately and the highest range number in any of the three categories shall be the range number of the business.

(2) *Fee schedule.*

1-A	\$160	2-A	\$210	3-A	\$320	4-A	\$480
1-B	190	2-B	240	3-B	350	4-B	500
1-C	215	2-C	270	3-C	380	4-C	550
1-D	325	2-D	380	3-D	490	4-D	650
1-E	540	2-E	600	3-E	700	4-E	850

(Ord. passed 2-7-95)

EMERGENCY MANAGEMENT

§ 92.80 PURPOSE.

(A) The purpose of this section is to establish an Office of Emergency Management to ensure that the city is adequately prepared to cope with an occurrence of disaster resulting from fire, flood, hurricane, earthquake, or other natural, technological or man-made causes in order to preserve the lives of the property of the people.

(B) The Office of Emergency Management shall be the coordinating agency for all activity in connection with emergency planning; it will be the instrument through which the community officials may exercise the authority and discharge the responsibilities vested in them in R.S.A. Chapter 107-C, Emergency Management Act, as amended, and this section.

('71 Code, § 9-60) (Ord. passed 9-3-96)

§ 92.81 OFFICE ESTABLISHED.

An Office of Emergency Management is hereby established under the management of the Director of Emergency Management.

('71 Code, § 9-61) (Ord. passed 9-3-96)

§ 92.82 DIRECTOR APPOINTED.

The Board of Mayor and Aldermen shall appoint a Director of Emergency Management who shall serve at the pleasure of the Board.

('71 Code, § 9-62) (Ord. passed 9-3-96)

§ 92.83 POWERS AND DUTIES.

The Director of Emergency Management shall, subject to the direction and control of the Board of Mayor and Aldermen, exercise those powers and duties as set forth in R.S.A. Chapter 107-C, Emergency Management Act.

('71 Code, § 9-63) (Ord. passed 9-3-96)

§ 92.99 PENALTY.

(A) Any person who violates any provision of this chapter for which no penalty is otherwise provided shall be subject to the penalty set forth in § 10.99 of this code of ordinances.

(B) Any person, firm or corporation responsible for a violation of § 92.07 of this chapter shall be subject to a notice of violation and penalty as provided in an Ordinance Regulating Traffic upon the Public Streets of the city and any other penalty provided by law. (Ord. passed 2-7-95)

CHAPTER 93: ALARMS

Section

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§ 93.01 PURPOSE.

(A) The purpose of this chapter is to encourage security alarm users and alarm businesses (sales, installation, customer service, and/or monitoring) to maintain the operational reliability and the proper use of alarm systems in limiting unnecessary police emergency responses to false alarms.

(B) This chapter governs burglary, robbery, and panic systems, requires permits, establishes fees, provides for penalties for violations, establishes a system of administration, and sets conditions for suspension

or loss of permit.

(Ord. passed 6-27-94)

§ 93.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALARM ADMINISTRATOR. A person or persons designated by the Chief to administer, control and review alarm application, permits, and false alarm notifications.

ALARM NOTIFICATION. A notification intended to summon the police, which is designed either to be initiated purposely by a person or by an alarm system that responds to a stimulus characteristic of unauthorized intrusion. Multiple false alarm notifications in a 24-hour period of time shall be counted as only one F.A.N., when documentation is provided by the permit holder's alarm maintenance company that the alarm notifications were not as a cause of operator error.

ALARM REVIEW BOARD. Consists of one representative of the Police Department, two professionals from the alarm industry as well as two members of the public at large, appointed by the Mayor.

ALARM SITE. A single premise or location served by an alarm system or systems.

ALARM SYSTEM. A device or system that emits, transmits, or relays a signal intended to summon, or that would reasonably be expected to summon police services of the city, including but not limited to local alarms. **ALARM SYSTEM** does not include:

- (1) An alarm installed on a vehicle unless the vehicle is permanently located at a site.
- (2) An alarm designed to alert only the inhabitants of a premises that does not have a local alarm.
- (3) Fire alarms.

AUTOMATIC TELEPHONE DIALING ALARM SYSTEM. Any automatic dialing device or an automatic telephone dialing alarm system shall include any system which, upon being activated, automatically transmits by telephone or telephone line to the Police Department a recorded message or code signal indicating a need for emergency response; or a system which, upon activation, connects to an answering service whose function it is to transmit to the Police Department dispatcher a need for emergency response.

CHIEF. The Chief of Police or an authorized representative.

FALSE ALARM NOTIFICATION (FAN). An alarm notification to the Police Department, when the responding officer finds no evidence of a criminal offense or attempted criminal offense. Excluded from this definition are:

- (1) Alarms occurring during electrical storms, hurricanes, tornados, blizzards, and acts of God.

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- (2) The intermittent disruption or disruption of the telephone circuits beyond the control of the alarm company and/or alarm user.
- (3) Electrical power disruption or failure.
- (4) Alarms caused by a failure of the equipment at the communications center.
- (5) Other extraordinary circumstances not reasonably subject to contract by the permit holder.

FISCAL YEAR. The period of July 1 through June 30.

LOCAL ALARM. An alarm system that emits a signal at an alarm site that is audible from the exterior of a structure.

PERMIT HOLDER. The person designated in the application as required in § 93.03 of this chapter who is responsible for responding to alarms and giving access to the site, and who is responsible for proper maintenance and operation of the alarm system and payment of fees.

PERSON. An individual, corporation, partnership, association, organization or similar entity.

(Ord. passed 6-27-94)

§ 93.03 PERMIT REQUIRED; APPLICATION; FEE.

(A) A person commits an offense if he operates or causes to be operated an alarm system without a valid permit issued by the Chief. A separate permit is required for each alarm system. (Optional medical or duress (panic) activation devices whether stationary or portable will be considered as part of a burglary system, and will be covered under a burglary permit which is in good standing.)

(B) Upon receipt of a completed application form and a nonrefundable permit fee of \$30 for a new permit and \$20 for annual permit renewal.

(1) Any alarm owned, operated, or leased by any federal, state, county or local government agency a permit may be obtained without the payment of a fee.

(2) If a residential alarm user is over the age of 65 and is the primary resident of the dwelling and if no business is conducted in the residence, a user's permit may be obtained without the payment of a fee.

(C) The Chief shall issue an alarm permit to an applicant unless the applicant has:

- (1) Failed to pay the fee assessed under division (B) of this section.
- (2) Had an alarm permit for the alarm site revoked, and the violation causing the revocation has not been corrected.

(D) Each permit applicant must include the following information:

(1) The name, address, and telephone numbers of the person who will be the permit holder and be responsible for the proper maintenance and operation of the alarm system and payment of fees assessed

under this chapter.

- (2) The classification of the alarm site as residential, commercial, or apartment.
- (3) For each alarm system located at the alarm site, the purpose of the alarm system (that is, burglary or robbery).
- (4) The date of installation or maintenance of the alarm system, whichever is applicable.
- (5) Other information required by the Chief that is necessary for the enforcement of this chapter.

(E) Any false statement of a material matter made by an application for the purpose of obtaining an alarm permit shall be sufficient cause for refusal to issue a permit.

(F) An alarm permit cannot be transferred to another person. A permit holder shall inform the Chief of any change that alters any information listed on the permit application within five business days. No fee will be assessed for such changes.

(G) All fees owed by an applicant must be paid before a permit may be issued or renewed.

(Ord. passed 6-27-94; Am. Ord. passed 6-1-04) Penalty, see § 10.99

§ 93.04 ALARM SYSTEMS IN APARTMENT COMPLEXES.

(A) The owner or property manager of an apartment complex shall obtain a master alarm permit from the Chief if any alarm system is operated in any residential unit on the premises, when the alarm system is furnished by the apartment complex owner as an amenity.

(B) A tenant of an apartment complex shall also obtain an alarm permit from the Chief before operating or causing the operation of an alarm system in the tenant's residential unit.

(C) For purposes of enforcing this chapter against an individual residential unit, the alarm permit of the tenant supersedes the master alarm permit of the apartment complex; and, the tenant is responsible for false alarm notifications emitted from the alarm system in the tenant's residential unit. The master alarm permit holder is responsible for false alarm notifications emitted from unoccupied residential units.

(D) The owner or property manager of an apartment complex shall obtain a separate alarm permit for any alarm system operated in a nonresidential area of the apartment complex, including, but not limited to common tenant areas and office, storage, and equipment areas.

(Ord. passed 6-27-94) Penalty, see § 10.99

§ 93.05 PERMIT DURATION; RENEWAL.

A permit expires annually on June 30, and must be renewed for a new one year period by submitting an

updated application and a permit renewal fee to the Chief. It is the responsibility of the permit holder to submit an application prior to the permit expiration date. Permits may be renewed anytime during the month of June for the upcoming year. Failure to renew will be classified as use of a nonpermitted alarm system and citations and penalties shall be assessed without waiver. Original permits issued between April 1 and June 30 of each year will be valid until June 30 of the following year.

(Ord. passed 6-27-94)

§ 93.06 PROPERTY ALARM SYSTEMS OPERATION AND MAINTENANCE.

(A) A permit holder or person in control of an alarm system shall:

(1) Maintain the premises and the alarm system in a manner that will minimize or eliminate false alarm notifications.

(2) Respond or cause his representative to appear at the systems location within a reasonable period of time when notified by the city to deactivate a malfunctioning alarm system, to provide access to the premises, or to provide security for the premises.

(3) Not manually activate an alarm for any reason other than an occurrence of an event that the alarm system was intended to report.

(B) All alarm systems will have an automatic reset which silences the annunciator within 15 minutes after activation and which will not sound again as a result of the same event that resulted in the original activation.

(C) Every permit holder shall be required to have its alarm system inspected at least once each year by an alarm company and to post a certificate of such inspection on the premises where the alarm system is maintained. The certificate shall state, in the opinion of the alarm company, the alarm system complies with the applicable installation standards and is safe and reliable. The certificate will further indicate the date of the inspection and the typed name and signature of the inspector. Each permit will expire on June 30 of each year.

(Ord. passed 6-27-94) Penalty, see § 10.99

§ 93.07 RETENTION OF ALARM COMPANY; APPROVAL OF CHIEF OF POLICE REQUIRED.

A permit holder or person in control of an alarm system shall not contract or retain an alarm company who is not properly approved by the Chief of Police.

(Ord. passed 6-27-94) Penalty, see § 10.99

§ 93.08 INDIRECT ALARM REPORTING.

A person who is engaged in the business of relaying alarm notifications to the city shall:

- (A) Report alarms only over special trunklines or other communication facilities designated by the city.
- (B) Communicate alarm notifications to the city in a manner and form determined by the Chief.

(Ord. passed 6-27-94) Penalty, see § 10.99

§ 93.09 DIRECT ALARM REPORTING.

Effective May 1, 1994 the Police Department will only be accepting proprietary alarm or alarms wholly owned and operated by the city and central station facilities for the purpose of satisfying Underwriters' Laboratory requirements.

(Ord. passed 6-27-94)

§ 93.10 AUTOMATIC TELEPHONE DIALING ALARM SYSTEMS PROHIBITED.

(A) It shall be unlawful for any person, natural or corporate, to sell, offer for sale, install, maintain, lease, operate, or assist in the operation of an automatic telephone dialing alarm system over any telephone lines exclusively used by the public to directly request emergency service from the Police Department.

(B) The Chief, when he has knowledge of the unlawful maintenance of an automatic telephone dialing alarm system, installed or operated in violation of division (A) of this section, shall, in writing, order the owner, operator, or lessee to disconnect and cease operation of the system within 72 hours from receipt of the order.

(C) Any automatic telephone dialing system installed unlawfully, as set forth in division (A) of this section prior to the effective date of this chapter, shall be removed within 30 days.

(Ord. passed 6-27-94) Penalty, see § 10.99

§ 93.11 ALARM SYSTEM OPERATING INSTRUCTIONS.

A person in control of an alarm system shall maintain at each alarm site a complete set of written operating instructions for each alarm system. Special codes, combinations, or passwords should not be included in these instructions.

(Ord. passed 6-27-94)

§ 93.12 ALARM DISPATCH RECORDS.

(A) The officer responding to a dispatch resulting from a burglary, robbery, panic, or trouble alarm notification shall record such information as necessary to permit the Chief to maintain records, including but not limited to the following information:

- (1) Identification of the permit holder.
- (2) Identification of the alarm site.
- (3) Arrival time and dispatch received time.
- (4) Time of day, date.
- (5) Weather conditions.
- (6) Area and/or sub-area of premise involved.
- (7) Name of permit holder's representative on premises.

(8) If any permit holder's representative fails or refuses to respond the names of the individuals contacted shall be noted in the departmental computer in the comment field under the call for service.

(B) The responding police officer shall indicate whether the notification was caused by a criminal offense, an attempted criminal offense, or a false alarm.

(C) In the case of an assumed false alarm (when a permit holder representative fails or refuses to respond) the responding police officer shall leave notice at the alarm site that the Police Department has responded to a false alarm notification. The notice must including the following information:

- (1) The date and time of police response to the false alarm notification.
- (2) The identification number of the responding police officer.
- (3) A statement urging the permit holder to ensure the alarm system is properly operated and maintained in order to avoid service fees.

(Ord. passed 6-27-94)

§ 93.13 SYSTEM PERFORMANCE REVIEWS.

If there is reason to believe that an alarm system is not being used or maintained in a manner that insures proper operation and suppresses false alarm, the Chief may require a conference with an alarm permit holder and the individual or association responsible for maintenance of the alarm system to review the circumstances of each false alarm.

(Ord. passed 6-27-94)

§ 93.14 FALSE ALARM NOTIFICATION.

(A) The holder of an alarm permit or the person in control of an alarm system shall be subject to warning, fines and suspension or loss of the permit (any alarm owned, operated, or leased by any federal, state, county or local government agency will not be subject to fines) depending on the number of false alarm notifications emitted from an alarm system within a 12-month period from July 1 through June 30.

(B) Number of false alarm notifications; action taken.

(1) For the first three false alarm notifications, no action will be taken.

(2) The activation of four or more false alarms within a 12-month period from July 1 through June 30, will be handled according to the following schedule:

(a) The fourth and fifth false alarms will be billed a \$25 service charge per occurrence which shall be considered a bill owed by the permit holder to the city. Each \$25 service charge incurred for the fourth and fifth false alarms at the premises described in the permit holder's permit shall be paid within 30 days from date of receipt thereof. Failure to make payment within 60 days from date of receipt shall result in revocation of the permit holder's permit until payment is received.

(b) The sixth false alarm shall result in a \$100 service charge (which includes a \$25 reinstatement fee) which shall be considered a bill owed by the permit holder to the city and revocation of the permit holder's permit in the following manner:

1. The permit holder shall be given ten days advance written notification that the permit holder's permit will be revoked, the written notice shall set forth the reasons for such revocation.

2. The notice shall specify the specific date of revocation, and that any response by the Police Department will result in an assessment of \$100 to alarms that occur at the premises described in the permit after the date of revocation, in addition to any other fees incurred under this schedule.

3. Reinstatement of the permit will be made upon receipt of all fees owed to the city under this chapter and upon compliance with the following conditions:

a. After the sixth false alarm, the alarm permit holder shall be required to have his alarm system inspected by a licensed and certified installer. Certificate of such inspection will be sent to the Police Department, and a copy of the inspection will be posted on the premises where the alarm system is maintained. The certificate will indicate the date of the inspection and the typed name and signature of the inspector.

b. A letter from the inspector will accompany the certificate, explaining what corrective action was taken to assure against further false alarms, either by repairing the systems, checking for proper installation and/or training the user in the proper use of the system.

(c) The seventh false alarm shall result in a written notification to the permit holder that upon activation of the next false alarm, the permit holder's permit will be revoked. The seventh false alarm

will be billed a \$150 service charge, which shall be considered a bill owed by the permit holder to the city.

(d) The eighth false alarm shall result in revocation of the permit holder's permit in the manner described in division (B)(b)1. through 3. of this section, except the false alarm will be billed at \$300 (which includes a \$50 reinstatement fee) and shall be considered a bill owed by the permit holder to the city.

(e) The ninth false alarm shall result in a written notification to the permit holder that upon activation of the next false alarm the permit holder's permit will be revoked. The ninth false alarm will be billed a \$350 service charge, which shall be considered a bill owed by the permit holder to the city.

(f) The tenth false alarm and each subsequent false alarm, the permit holder's permit shall be revoked in the manner described in division (B)(b)1. through 3. of this section and also that an inspection of the premises shall be conducted by a representative of the Police Department, along with a representative of the permit holder's alarm company and a representative of the permit holder. The tenth false alarm and each subsequent false alarm will be billed a \$500 service charge, which shall be considered a bill owed by the permit holder to the city.

(C) Any person who operates a newly installed system will not be subject to false alarm notifications action during the 30 days following the system completion provided a permit application is received by the Chief. The completion date shall be certified by a person where the system is professionally installed, or the date of the purchase receipt for self-installed systems.

(D) Any person operating a nonpermitted alarm system will be subject to a citation and assessment of a \$100 fee for each alarm without benefit of the notifications provided for in this section. Subsequent submittal of an alarm permit application shall have all previously received alarms counted in accumulating the five notification total.

(E) Alarm activations, caused by actual criminal offense or with evidence of a criminal attempt, shall not be counted, nor false alarm notifications accumulated.

(Ord. passed 6-27-94; Am. Ord. passed 1-17-95)

§ 93.15 REVOCATION OR LOSS OF ALARM PERMIT.

(A) The Chief may revoke an alarm permit if it is determined that:

(1) There is a false statement of a material matter in the application for a permit.

(2) The permit holder has violated §§ 93.06 through 93.10, or 93.13 of this section.

(3) The permit holder has failed to make payment within 60 days of a fee assessed under § 93.14(B)(2) of this chapter.

(4) Six or more false alarm notifications have been emitted from the alarm site within a 12-month calendar year period.

(B) A person commits an offense if he operates an alarm system during the period in which an alarm

permit is revoked.

(Ord. passed 6-27-94) Penalty, see § 10.99

§ 93.16 APPEAL FROM DENIAL OR REVOCATION.

(A) (1) If the Chief denies the issuance or renewal of a permit, or revokes a permit, he shall send written notice of his action and a statement of the right to an appeal by certified mail, return receipt requested, to both the applicant or permit holder and the applicable alarm installing or service company.

(2) The applicant or permit holder may appeal the decision of the Chief to the Alarm Review Board, by filing a written request for a review, setting forth the reasons for the appeal within ten days, after receipt of the notice from the Chief.

(3) Filing of a request for appeal shall stay the action by the Chief of revoking the permit until the Alarm Review Board has completed its review. If a request for appeal is not made within the ten-day period, the action of the Chief is final.

(4) Any review ordered under § 93.13 of this chapter requires the attendance of both permit holder and applicable alarm company.

(5) Any request for any waiver applicable under division (5) of the definition for **ALARM SYSTEM** set forth in § 93.02 of this chapter or any request for waiver of fees, or any request for waiver of any false alarm notifications action, must be made to the Alarm Review Board by the permit holder.

(6) The Alarm Review Board shall be the sole authority in the final determination of any waiver request of any kind not specifically exempted elsewhere within this chapter.

(B) Permit holders shall be entitled to a hearing, if requested within 30 days of receipt of notice of a sustained revocation of permit or false alarm notifications action taken. The hearing shall be conducted by an Alarm Review Board.

(C) The Alarm Review Board shall conduct a formal hearing and consider the evidence of any interested persons. The Board shall make their decision on the basis of a preponderance of the evidence presented at the hearing. The Board must render a decision within ten days after the hearing. The Board shall affirm, reverse, or modify the action of the Chief. The decision of the Board is final as to administrative remedies with the city.

(Ord. passed 6-27-94)

§ 93.17 REINSTATEMENT OF PERMIT.

A person whose alarm permit has been revoked may be issued a new permit if the person:

(A) Pays or otherwise resolves, all fees assessed against the permit holder under this chapter; and

(B) Upon submission of certification from a professional alarm company, stating that the alarm system has been inspected and maintained by, or with the direct supervision and approval of the alarm company.

(Ord. passed 6-27-94)

§ 93.18 PROTECTION OF CERTAIN BUSINESSES.

(A) Any business or any individual, partnership, corporation, or other entity engaged in selling, leasing, maintaining, servicing, repairing, altering, replacing, moving of any firearms, explosives, or ammunition including but not limited to all federal firearms licensed dealers, to be sold, leased, maintained, serviced, repaired, altered, replaced, moved, or installed in or on any building, structure or facility shall be required to install and maintain an Underwriters' Laboratory approved burglar alarm system covering all accessible access points or a combination of interior devices, including but not limited to photoelectric, ultrasonic, microwave, proximity, and sound devices. The method of alarm transmission must be a direct wire or a supervised line to an Underwriters' Laboratory approved central station or a method of transmission to an Underwriters Laboratory approved central station approved by the Chief of Police in keeping with industry standards.

(B) Any business which manufactures, sells, stores, or trades in any controlled substance which is defined under the classification of Schedules I through IV of The Controlled Substance Act (Title II, Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91-513)), 21 USC 812, shall be required to install and maintain an Underwriters' Laboratory approved burglar alarm system covering all accessible access points or a combination of interior devices, including but not limited to photoelectric ultrasonic, microwave, proximity and sound devices. The method of alarm transmission must be a direct wire or a supervised line to an Underwriters' Laboratory approved central station or a method of transmission to an Underwriters' Laboratory approved central station approved by the Chief of Police in keeping with industry standards.

(C) All financial institutions which operate under the provisions of the Bank Protection Act of 1968 (12 U.S.C., Section 1882) operating within the city limits shall be required to, at a minimum, install and maintain an Underwriters' Laboratory approved burglar alarm system covering all accessible access points or a combination of interior devices, including but not limited to photoelectric, ultrasonic, microwave, proximity, and sound devices. The method of alarm transmission must be a direct wire or a supervised line to an Underwriters' Laboratory approved central station or a proprietary system approved by the Chief of Police in keeping with industry standards.

(D) Any business operating under the definitions of divisions (A) through (C) of this section must be in compliance by January 1, 1995.

(E) The Chief of Police may require any business to install and maintain an Underwriters' Laboratory burglar alarm system. In making a determination of the necessity for an alarm system, the Chief of Police shall consider such factors as the history of the unlawful entries against the particular establishment and the type of business and the nature and value of the inventory of the particular establishment.

(Ord. passed 6-27-94)

§ 93.19 LIABILITY OF CITY LIMITED.

The Police Department of the city shall take every reasonable precaution to assure that the alarm notifications received by the Police Department are given appropriate attention and are acted upon with dispatch. Nevertheless, the Police Department, the city, or any of its officers or agents, shall not be liable for any defects in operation of alarm devices, for any failure or neglect to respond appropriately upon receipt of an alarm notification, nor for the failure or neglect of any person in connection with the installation and operation of alarm devices or their components, the transmission of alarm signals, or the relaying of such signals and notifications. In the event the Police Department finds it necessary to disconnect an alarm device, the Police Department, the city, or any of its officers or agents, shall incur no liability by such action.

(Ord. passed 6-27-94)

CHAPTER 94: NOISE REGULATIONS

Section

- 94.01 Findings
- 94.02 Prohibited sounds; exceptions
- 94.03 Specific violations enumerated

Statutory reference:

Authority of city to prevent noise, see R.S.A. 47:17 (II)

§ 94.01 FINDINGS.

It is found and declared by the city that:

(A) The making and creation of loud, unnecessary or unusual noises within the limits of the city is a condition which has existed for some time and the extent and volume of such noises is increasing.

(B) The making, creation or maintenance of such loud, unnecessary, unnatural, or unusual noises which are prolonged, unusual and unnatural in their time, place and use affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the city.

(C) The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare, and prosperity and the peace

and quiet of the city and its inhabitants.

('71 Code, § 16-1) (Ord. passed 10-17-67)

§ 94.02 PROHIBITED SOUNDS; EXCEPTIONS.

(A) It shall be unlawful for any person to make, continue, or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others, within the limits of the city.

(B) The provisions of this chapter shall not apply to persons operating vehicles, machinery, or equipment while engaged in snow clearance or snow removal operations, provided such operations are conducted within 72 hours of the cessation of a snow storm resulting in the accumulation of at least three inches of snow as recorded by the United States Weather Bureau or Weather Service.

('71 Code, § 16-2) (Ord. passed 10-17-67; Am. Ord. passed 2-15-77) Penalty, see § 10.99

§ 94.03 SPECIFIC VIOLATIONS ENUMERATED.

The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this chapter, but the enumeration shall not be deemed to be exclusive, namely:

(A) *Horns, signaling devices, and the like.* The sounding of any horn or signaling device on any automobile, motorcycle, streetcar, or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle, or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.

(B) *Radios, phonographs, etc.* The using, operating or permitting to be played, used or operated of any radio, receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or any time with louder volume than is necessary for the reasonable hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device by a commercial establishment between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the lot line, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

(C) *Loudspeakers, amplifiers for advertising.* The using, operating, or permitting to be played, used, or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure in such a manner that the peace and good order of the neighborhood is disturbed or that persons, owning, using, or

occupying property in the neighborhood are disturbed or annoyed.

(D) *Yelling, shouting, and the like.* Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel, or other type of residence, or of any persons in the vicinity.

(E) *Animals, birds, and the like.* The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.

(F) *Steam whistles.* The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper city authorities.

(G) *Exhaust.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motorboat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(H) *Defect in vehicle or load.* The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.

(I) *Loading, unloading, opening boxes.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.

(J) Construction, repairing of buildings; excavation, repair of streets, highways.

(1) *Construction or repairing of buildings.* The erection (including excavating), demolition, alteration, or repair of any building other than between the hours of 7:00 a.m. and 9:00 p.m. on weekdays, except in cases of emergency or urgent necessity in the interest of public health and safety, and then only with a permit from the Building Commissioner or his deputy, which permit may be granted for a limited time only while the emergency continues or urgent necessity warrants. If the Building Commissioner or his deputy should determine that public health and safety will not be impaired and that loss or substantial inconvenience would result to any party in interest if the erection, demolition, alteration, or repair of any building were not allowed at a time other than between the hours of 7:00 a.m. and 9:00 p.m. on weekdays, he may grant permission for such work to be performed at a stipulated time other than these hours, upon application being made at the time the permit for the work is issued or during the progress of the work.

(2) *Excavation and repairs of streets and highways.* Excavation of streets and highways may be done only with permission granted by the director of public works under the same restrictions and powers delegated to the Building Commissioner in division (J)(1), above.

(K) *Schools, courts, churches, hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning, church, or court while the same is in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital, or court street.

(L) *Hawkers, peddlers.* The shouting and crying of peddlers, hawkers, and vendors which disturbs the peace and quiet of the neighborhood.

(M) *Drums.* The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.

(N) *Metal rails, pillars, and columns, transportation thereof.* The transportation of rails, pillars, or columns of iron, steel or other material, over and along streets and other public places upon carts, drays, cars, trucks, or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or other public places.

(O) *Pile drivers, hammers, and the like.* The operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or other appliance, the use of which is attended by loud or unusual noise.

(P) *Blowers.* The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.

('71 Code, § 16-3) (Ord. passed 10-17-67; Am. Ord. passed 8-16-76; Am. Ord. passed 10-1-85; Am. Ord. passed 12-19-95) Penalty, see § 10.99

CHAPTER 95: AIR POLLUTION

Section

95.01 Hazardous or offensive fumes restricted

95.02 Enforcement

Cross-reference:

Health and sanitation, see Ch. 91

§ 95.01 HAZARDOUS OR OFFENSIVE FUMES RESTRICTED.

It shall be unlawful for any person knowingly to permit the emission from any heating plant or from any apparatus in which fuel is consumed or smoke, vapor, or odor in excess of that which such heating plant or apparatus may reasonably be expected to emit, when the same is properly fired with suitable fuel, or to use automobile tires, rags, or other noxious substances for fuel, at any point in the city within a distance of 500 feet of any habitation located within any business or residential zoning district during a continuous period of more than five minutes or for more than two hours of each day.

('71 Code, § 3-1) Penalty, see § 10.99

§ 95.02 ENFORCEMENT.

Any party aggrieved by the emission of excessive smoke, vapor, or odor may make his complaint in writing to the City Clerk, who shall refer the same directly to the Committee on City Planning of the Board of Mayor and Aldermen. The Committee shall carefully investigate the complaint and refer its findings to the Board of Mayor and Aldermen who, by vote, may direct the City Prosecutor to proceed against the alleged offender under the provisions of this chapter.

('71 Code, § 3-2)

CHAPTER 96: PARKS AND RECREATION

Section

96.00	Department of Parks, Recreation and Cemetery established
96.01	Parks designated
96.02	Title
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§ 96.00 DEPARTMENT OF PARKS, RECREATION AND CEMETERY ESTABLISHED.

- (A) Pursuant to Charter § 3.02 there is established a Department of Parks, Recreation and Cemetery.
- (B) The department head shall be the Superintendent of Parks, Recreation and Cemetery who shall be appointed as provided by Charter § 3.03.
- (C) The Department of Parks, Recreation and Cemetery shall also include a Parks, Recreation and Cemetery Commission consisting of five members who shall be appointed as provided by Charter § 3.14 and the commission shall have those duties and responsibilities as assigned by the Charter.
- (D) The Department of Parks, Recreation and Cemetery shall be responsible for city parks, recreational facilities and programs, including school athletic facilities, and public cemeteries and shall perform such other duties as are prescribed by federal, state and local law.

(Ord. passed 11-4-98)

§ 96.01 PARKS DESIGNATED.

(A) The name “Ray Cross Pony League Field” shall be bestowed on the Pony League Field located at the corner of Maple Street and Auburn Street.

(B) The name “Thomas J. Enright Park” shall be bestowed on that park to be developed on the site of the former Lincoln School.

(C) The name “Stanton Plaza Park” shall be bestowed on the park to be constructed in the vicinity of Elm and Pleasant Streets in conjunction with the Granite Street Redevelopment Project.

('71 Code, § 17½-1) (Ord. passed 3-2-71; Am. Ord. (2), passed 12-28-81)

§ 96.02 TITLE.

Sections 96.03 through 96.08 of this chapter shall be known and may be cited as “An Ordinance Regulating Conduct in Public Parks.”

('71 Code, § 17½-16) (Ord. passed 2-16-71)

§ 96.03 DEFINITIONS.

For the purpose of §§ 96.04 through 96.08 of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PARK. A park, playground, beach, recreation center, or any other area in the city, owned or used by the city, and devoted to active or passive recreation.

PERSON. Any person, firm, partnership, association, corporation, company or organization of any kind.

SUPERINTENDENT. The Superintendent of Parks and Recreation and to whom all park attendants of such areas are responsible.

('71 Code, § 17½-17) (Ord. passed 2-16-71)

§ 96.04 PARK OPERATING POLICY.

(A) Parks shall be closed to the public every day of the year from 11:00 p.m. until 7:00 a.m., except for such functions as fireworks displays and such other community programs as may be authorized by the Superintendent.

(B) The Superintendent may, with the approval of the Parks and Recreation Commission, after being advised by the Police Department of repeated disturbance to the public peace, in a specific park, immediately order a change in curfew hours for said park for such a period as deemed necessary, provided however that immediate public notice is given through the news media and that such change in curfew is conspicuously posted at the affected park.

(C) This section is not intended to discourage the legitimate use of parks and playgrounds which have been specifically designed for nighttime use and for which use, the proper permission has been granted to conduct legitimate sporting or recreational activities.

('71 Code, § 17½-21) (Ord. passed 2-16-71; Am. Ord. passed 10-9-79) Penalty, see § 10.99

§ 96.05 SANITATION.

No person in a park shall do any of the following:

(A) *Pollute waters.* Throw, discharge, or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such waters any substance, matter, or thing, liquid or solid, which will or may result in the pollution of the waters.

(B) *Deposit refuse and trash.* Have brought in or dump, deposit, or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, or refuse, or other trash. No such refuse or trash shall be placed in any water in or contiguous to any park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.

('71 Code, § 17½-18) (Ord. passed 2-16-71) Penalty, see § 10.99

§ 96.06 BEHAVIOR.

No person in a park shall do any of the following:

(A) *Possess intoxicating beverages.*

(1) *Prohibition.* Have brought alcoholic beverages, possess an open and uncapped container of alcoholic beverages, nor shall any person drink alcoholic beverages at any time in the park.

(2) *Exceptions.* The sale, possession and consumption of alcoholic beverages may be permitted in parks and recreational centers in such areas as are designated by the Parks and Recreation Commission, subject to the provisions of state law and the regulations of the State Liquor Commission and subject to such terms and conditions as the Parks and Recreation Commission may prescribe.

(B) *Build fires.* Build or attempt to build a fire except in such areas and under such regulations as

may be designated by the Superintendent.

(C) *Engage in games of chance.* Gamble, or participate in or abet any game of chance except raffles, bingo, lucky 7 and other games of chance authorized by state law. Such games of chance authorized by state law may be permitted in parks and recreational centers, in areas designated by the Parks and Recreation Commission, and subject to such terms and conditions as the Commission may prescribe. Such games of chance shall be conducted in strict compliance with state law and the terms and conditions established by the Commission.

(D) *Loiter or behave in a boisterous manner.* Sleep, or protractedly lounge on the seats or benches, or other areas, or engage in loud, boisterous, threatening, abusive, insulting, or indecent language, or engage in any disorderly conduct or behavior tending to a breach of the public peace.

(E) *Camp.* Set up tents, shacks, or other temporary shelter for the purpose of overnight camping.

(F) *Golf.* Swing at or hit a golf ball in any city park or on any city property that is not specified by the Superintendent for golfing or unless otherwise approved by the Superintendent.

('71 Code, § 17½-19) (Ord. passed 2-16-71; Am. Ord. passed 11-19-85; Am. Ord. passed 10-4-88; Am. Ord. passed 11-28-00) Penalty, see § 10.99

§ 96.06.1 SMOKING AT GILL STADIUM.

(A) In order to protect the health, welfare and safety of the citizens of the city and all other persons also attending activities at Gill Stadium, no person shall, at any time, smoke any tobacco, tobacco related product, filter or other plant or weed while within the perimeter fenced in area of Gill Stadium.

(B) *Exception.* The smoking of any tobacco or tobacco related product may be permitted in Gill Stadium in such areas as are specifically designated for smoking by the Parks, Recreation and Cemetery Commission, subject to the provisions of state law and review by the Health Department. The Commission may prescribe such terms and conditions as it deems appropriate to smoking to the designated area or areas.

(Ord. passed 8-5-97) Penalty, see § 10.99

§ 96.07 TRAFFIC.

No person in a park shall do any of the following:

(A) *Fail to obey state motor vehicle laws.* Fail to comply with all applicable provisions of the state motor vehicle traffic laws in regard to equipment and operation of vehicles together with such regulations as are contained in this section and other ordinances.

(B) *Fail to obey traffic enforcement officers.* Fail to obey all traffic officers and park employees, such persons being hereby authorized and instructed to direct traffic whenever and wherever needed in the parks and on the highways, streets, or roads immediately adjacent thereto in accordance with the provisions of

these regulations and such supplementary regulations as may be issued subsequently by the Superintendent.

(C) *Fail to obey traffic signs.* Fail to observe carefully all traffic signs indicating speed, direction, caution, stopping, or parking, and all others posted for proper control and to safeguard life and property.

(D) *Exceed speed limits.* Ride or drive a vehicle at a rate of speed exceeding the statutory speed limit as determined by the state as it may be changed and posted by ordinance of the city.

(E) *Operate a vehicle in unauthorized areas.* Drive any vehicle, including but not limited to motor vehicles, motorcycles, mini-bikes, or motorized go-carts, on any area except the paved park roads or parking areas, or such other areas as may on occasion be specifically designated as temporary parking areas by the Superintendent, provided the vehicles are registered and authorized to be operated as motor vehicles.

('71 Code, § 17½-20) (Ord. passed 2-16-71) Penalty, see § 10.99

Cross-reference:

Traffic code, see Title VII

§ 96.08 ENFORCEMENT.

(A) *Officials.* The Superintendent, park attendants, and police shall, in connection with their duties imposed by law, diligently enforce the provisions of §§ 96.04 through 96.07 of this chapter.

(B) *Ejectment.* The Superintendent, park attendants, and police shall have the authority to eject from the park any person acting in violation of this chapter.

(C) *Seizure of property.* The Superintendent, park attendants, and police shall have the authority to seize and confiscate any property, thing, or device in the park, or used, in violation of this chapter.

('71 Code, § 17½-22) (Ord. passed 2-16-71) Penalty, see § 10.99

CHAPTER 97: STREETS AND SIDEWALKS

Section

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Statutory reference:

Authority of city to regulate all streets and public ways, see R.S.A. 47:17 (VII)

GENERAL PROVISIONS

§ 97.00 HIGHWAY DEPARTMENT ESTABLISHED.

(A) Pursuant to Charter § 3.02 there is established a Highway Department.

(B) *Department head.* The department head shall be the Public Works Director who shall be appointed as provided by Charter § 3.03. The Public Works Director shall also be the Chief Engineer for the city.

(C) *Composition.* The Highway Department shall also include a Highway Commission consisting of five members who shall be appointed as provided by Charter § 3.14 and the Commission shall have those duties and responsibilities as assigned by the Charter.

(D) *Duties.* The Highway Department shall be responsible for the construction and maintenance of all public roadways and bridges, the collection and treatment of wastewater, the control and collection of storm drainage, the collection and disposal of solid waste, shall provide for custodial, corrective and preventive maintenance, environmental compliance and capital improvements for city buildings, and the related mechanical facilities, shall provide for city-wide centralized purchasing and fleet management initiatives, shall be responsible for the electric aggregation program and shall perform such other duties as are prescribed by federal, state and local law.

(Ord. passed 11-4-98; Am. Ord. passed 12-7-99)

§ 97.01 DRIVING ON SIDEWALKS PROHIBITED.

No person shall, without necessity, drive a wheeled carriage, sled, or wheelbarrow, upon or over the side pavements or walks of any street within the city.

('71 Code, § 22-1) Penalty, see § 97.99

§ 97.02 WETTING DOWN SIDEWALKS RESTRICTED.

No person shall wet down any sidewalk in the business sections of the city between the hours of 8:00 a.m. and 11:00 p.m. from April 1 to November 1 in each year.

('71 Code, § 22-2) Penalty, see § 97.99

§ 97.03 THROWING OR PUTTING SNOW IN STREETS PROHIBITED.

No person shall throw or put, or cause to be thrown or put, any snow or ice into any street in the city.

('71 Code, § 22-3) (Ord. passed 6-4-63) Penalty, see § 97.99

Statutory reference:

Snow obstructions, see R.S.A. 236.20

§ 97.04 UNCOVERED WELLS, CISTERNS, DRAINS PROHIBITED.

No person shall permit his well, cistern, or drain, in any street or sidewalk in the city to be uncovered.

('71 Code, § 22-4) Penalty, see § 97.99

§ 97.05 COLLECTING OR REMOVING DIRT OR MANURE FROM STREETS.

No person shall collect, gather up, or remove any earth, soil, muck, manure, or offal from any street in the city except by permission of the Department of Highways.

('71 Code, § 22-5) Penalty, see § 97.99

§ 97.06 POLICE CHIEF TO ENFORCE.

It shall be the duty of the Chief of Police to cause to be removed any awnings, shades, signs, advertisements, banners, overpasses, or other objects constructed otherwise than as provided in this chapter and to prosecute any person offending against any of its provisions.

('71 Code, § 22-6)

BUILDING NUMBERS AND STREET NAMES

§ 97.15 DESIGNATED BY BOARD.

The Department of Highways shall, as the convenience of the public may require, designate the numbers to be affixed to the buildings on the streets and squares in the city, and shall designate the names of new streets when laid out.

('71 Code, § 22-15) (Am. Ord. passed 10-31-78)

§ 97.16 NUMBERS TO BE AFFIXED.

Any building or structure for which a number has been designated shall have such number affixed thereto in such manner so as to be plainly visible from the street which abuts the main entrance to the property.

('71 Code, § 22-16) (Ord. passed 10-31-78)

Cross reference:

Citation penalties, see § 38.06

§ 97.17 UNAUTHORIZED BUILDING NUMBERS PROHIBITED.

No person shall affix, or permit to be affixed to, or shall allow to remain upon any building in the city, any different number from the one designated by the Department of Highways.

('71 Code, § 22-18)

Cross reference:

Citation penalties, see § 38.06

§ 97.18 MASTER PLAN FOR NUMBERING BUILDINGS.

On all streets in the city, the odd numbers to be affixed to the buildings thereon shall be on the right-hand side and the even numbers on the left-hand side in the progressive order of numbering commencing with the lowest numbers, and proceeding therefrom with increasing numbers, as follows:

(A) On the east side of the Merrimack River, in streets running northerly and southerly, the numbering shall commence at Kennedy Street, West Baker Street, Baker Street and Cilley Road, or at the northerly or southerly ends of streets not connecting with Kennedy Street, West Baker Street, Baker Street and Cilley Road on the northerly and southerly sides thereof.

(B) On the east side of the Merrimack River, in streets running easterly and westerly, the numbering shall commence at Elm Street from Mitchell Street and West Mitchell Street northerly; from Mitchell Street to the junction of Brown Avenue and Calef Road, the numbering shall commence at Calef Road in streets running easterly; from West Mitchell Street to the junction of Brown Avenue and Calef Road, the numbering shall commence at Brown Avenue in streets running westerly; from the junction of Brown Avenue and Calef Road southerly, in streets running easterly and westerly, the numbering shall commence at Brown Avenue.

(C) On the west side of the Merrimack River, in streets running northerly and southerly, the numbering shall commence at Granite Street from Main Street and South Main Street to the Merrimack River; from South Main Street northwesterly, the numbering shall commence at the Piscataquog River, or at the northerly or southerly ends of streets not connecting with Granite Street or the Piscataquog River on the northerly or southerly sides thereof.

(D) On the west side of the Merrimack River, in streets running easterly and westerly, the numbering shall commence at the Merrimack River, or at the easterly or westerly ends of streets not extending to or crossing the Merrimack River, and at Elm Street in streets crossing the river.

(E) Any entrance or door to a building fronting the street shall be designated by a separate number, but numbers may be omitted for vacant lots and spaces which may be built upon hereafter.

('71 Code, § 22-19)

§ 97.19 MASTER PLAN FOR STREET PREFIXES.

(A) The names of streets crossing Kennedy Street, West Baker Street, Baker Street, Cilley Road, Granite Street and the Piscataquog River shall be prefixed by the word “South” on the southerly side of said Kennedy Street, West Baker Street, Baker Street, Cilley Road, Granite Street, and the Piscataquog River; the northerly portions of the streets to have no-prefix name. This provision shall not apply to Willow Street and Calef Road.

(B) The names of streets crossing Elm Street from Mitchell Street and West Mitchell Street northerly and Brown Avenue from Calef Road southerly shall be prefixed by the word “West” on the west side of Elm Street and Brown Avenue; the easterly portions of the streets to have no prefix name.

('71 Code, § 22-20)

§ 97.20 CITY HALL PLAZA.

The City Hall and the City Hall Annex together shall be known as City Hall Plaza and together shall have an address of One City Hall Plaza.

(Ord. passed 8-4-98)

EXCAVATIONS AND OBSTRUCTIONS

§ 97.30 PERMIT AND COMPLIANCE WITH CONDITIONS REQUIRED.

(A) No person shall break or dig up the pavement, ground, or stones in any street or on any sidewalk or common in the city, or erect any staging for building, or place or deposit any earth, stone, bricks, timber, or other building materials thereon without first obtaining a written permit from the Department of Highways or some person authorized by them to grant such permit. ('71 Code, § 22-31)

(B) Any person issued a permit pursuant to this subchapter, shall comply in all respects with the conditions thereof. ('71 Code, § 22-34)

Penalty, see § 97.99

Statutory reference:

Obstructions and encroachments, see R.S.A. 236:15 et seq.

§ 97.31 GRANTING OF PERMIT.

The Department of Highways may grant a permit in writing to any person, for the purpose of building, or other lawful purposes to dig up, obstruct, or encumber so much and such parts of any street or sidewalk, or other public place in the city, and on such terms and conditions as it shall deem to be safe and proper.

('71 Code, § 22-32)

§ 97.32 BUS SHELTERS.

The Public Works Director with the approval of the Board of Mayor and Aldermen may grant permits to the Manchester Transit Authority for the erection and maintenance of bus shelters on public streets and sidewalks on such conditions as he shall deem to be safe and proper including approval of the location, design, type, size and adequacy of such shelters. The permits shall prescribe the manner of use of the shelters including maintenance requirements. The permits may be revoked as public convenience or necessity requires. The Building Department with the approval of the Board of Mayor and Aldermen may grant permits to the Manchester Transit Authority for the erection and maintenance of bus shelters on private property on such conditions as it deems to be safe and proper including approval of the location, design, type, size and adequacy of such shelters. The permits shall set forth the manner of use of the shelters including maintenance requirements and may be revoked by the Building Department as public convenience or necessity requires and shall be exempt from the provisions of the Zoning Code, Chapter 155 of this code.

('71 Code, § 22-32.1) (Am. Ord. passed 8-26-80)

§ 97.33 BOND AND INSURANCE CERTIFICATES REQUIRED FOR PERMIT.

(A) Any person applying for a permit pursuant to this subchapter, shall file with the Department of Highways a bond in such sum and with such sureties as the Department shall approve, conditioned to indemnify the city against all loss, cost, damage, or expense, by persons on account of such obstruction or encumbrance, and further conditioned to guarantee the city that any part of any street or sidewalk or other public place excavated by the licensee will be replaced at no cost to the city, and in a manner satisfactory to the Department of Highways, within a period of time not to exceed five days from the date of the completion of the project.

(B) The permittee, as a condition of the permit, shall agree to indemnify and protect the city and the Highway Department against all liability, claims, or demands for injuries or damages, including claims for loss or interruption of business in cases where the encumbrance or construction impedes the flow of traffic, to any person or property arising out of activities of the permittee, its servants, employees, agents, representatives or subcontractors.

(C) The permittee, as a condition of the permit, shall agree to carry the following insurance:

(1) Comprehensive general liability insurance with limits not less than \$1,000,000 per

occurrence for bodily injury and \$500,000 per occurrence for property damage and automobile liability insurance with limits not less than \$500,000 per person and \$1,000,000 per occurrence for bodily injury and \$500,000 per occurrence for property damage covering all activities of the permittee for the full period of the permit. Such insurance shall include the city and the Highway Department, including all officials and employees thereof. Such insurance shall include:

- (a) All activities including use of all vehicles.
- (b) Contractual liability covering this permit.
- (c) Coverage for the so-called “x, c, u,” hazards (for example, collapse of buildings, blasting, and damage to underground property).
- (d) Completed operations hazard for a period of at least two years following the acceptance by the Highway Department of the completed permit.
- (e) “Personal” injury coverage (in addition to “bodily injury”).

(2) The permittee shall carry worker's compensation insurance including employer's liability insurance with limits of \$100,000, whether or not required by The New Hampshire Revised Statutes Annotated, 1955, as amended, for all activities of the permittee during the period of the permit.

(3) Insurance similar to that required of the permittee shall be provided by, or on behalf of all independent contractors used by the permittee during the period of this permit. The permittee shall be held responsible for any modifications in these insurance requirements as they apply to independent contractors.

(4) Insurance certificates evidencing the above coverage are to be furnished to the Highway Department prior to issuance of the permit, and shall provide for not less than 30 days prior notice to the Highway Department of any cancellation or major change in the policies.

(5) The purchase of the insurance required or the furnishing of the aforesaid certificates shall not be a satisfaction of the permittee's liability hereunder or in any way modify the permittee's indemnification responsibilities to the city or the Highway Department.

('71 Code, § 22-33) (Am. Ord. passed 8-7-73; Am. Ord. passed 5-1-79) Penalty, see § 97.99

§ 97.34 ENCUMBRANCES PROHIBITED.

(A) No person shall encumber the street or sidewalk before his place of business, or elsewhere in the city, with any boxes, shelves, stands, merchandise, or other things, excepting that the Board of Mayor and Aldermen may grant a license to any person or persons to use and occupy a portion of the street or sidewalk for the purpose of conducting thereon street fairs or other community events. Each such license shall contain the following provisions:

- (1) Each license shall be valid for not in excess of three consecutive business days.
- (2) Each license shall allow the encumbering of no more than half of the sidewalk area immediately adjacent to the building so that a minimum of half of the sidewalk is maintained free and clear for

pedestrian traffic unless otherwise ordered by the Board of Mayor and Aldermen.

(3) Each license shall also be subject to such rules and regulations as are deemed appropriate by the Board of Mayor and Aldermen.

(B) The City Clerk, with the review and approval of the Building Commissioner and the Risk Manager may, in accordance with Chapter 110 of this code, license businesses located in the downtown area bounded by Auburn Street to Salmon Street and the easterly side of the Merrimack River to Chestnut Street to encumber no more than half of the sidewalk area immediately adjacent to the building in which the business is located so that a minimum of half of the sidewalk is maintained free and clear for pedestrian traffic. Each such license shall contain the following provisions:

(1) Each license shall be valid from May 1 through October 15 and the hours of operation shall be from 9:00 a.m. to 11:00 p.m.

(2) Each license shall be subject to the insurance provisions contained in § 115.60 of this code and shall be subject to the restrictions contained in § 115.44 of this code with the exception of times of operation.

(3) Each license shall also be subject to such rules and regulations as are deemed appropriate by the Board of Mayor and Aldermen.

(4) Each license shall be issued only to establishments as identified in division (B) of this section.

(5) Application fee. Each application for a permit under this section shall be submitted with a fee of \$50.

(6) Any establishment licensed pursuant to this subsection and serving alcoholic beverages to its patrons, must be a restaurant as defined in R.S.A. 175:1 and must provide the City Clerk with a copy of a current liquor license issued by the New Hampshire State Liquor Commission.

(C) Letter or package collection boxes may be erected upon a street or sidewalk, at sites chosen by, and under the direction and supervision of the Public Works Director and the Building Commissioner. Letter or package collection boxes shall be subject to such insurance and indemnification agreements as the Risk Manager may require.

(D) Newspaper distribution boxes may be erected upon a street or sidewalk under the direction and supervision of the Public Works Director who may impose such reasonable time, place and manner requirements as are necessary to protect the public safety and convenience. Newspaper distribution boxes shall be subject to such reasonable insurance and indemnification agreements as the Risk Manager may require.

('71 Code, § 22-35) (Am. Ord. passed 7-3-73; Am. Ord. passed 9-2-75; Am. Ord. passed 11-20-84; Am. Ord. passed 7-12-90; Am. Ord. passed 2-21-95; Am. Ord. passed 6-5-00; Am. Ord. passed 11-7-01; Am. Ord. passed 4-16-02) Penalty, see § 97.99

§ 97.35 ERECTION OF OBSTRUCTIONS PROHIBITED; EXCEPTION.

No person shall make, erect, or maintain any door-step, portico, porch entrance, or passageway to any cellar, basement, or other structure, upon any sidewalk in the city, except that handicap accessible entrances may be erected under the supervision of the Director of Public Works and Building Commissioner; and by a vote of the Board of Mayor and Aldermen installation of stairs within the public right-of-way in the Amoskeag Housing Historic District and marquees or porte cocheres or canopies may be erected under the supervision of the Building Commissioner.

('71 Code, § 22-36) (Am. Ord. passed 9-6-83; Am. Ord. passed 10-19-93) Penalty, see § 97.99

§ 97.36 FENCE AND LIGHT REQUIRED.

Whenever any street, sidewalk, or other public place in the city shall, under any permit granted pursuant to this subchapter, be dug up, obstructed, encumbered, or otherwise rendered thereby unsafe, or inconvenient for travelers, the person granted a permit shall at all times:

(A) Keep a suitable railing or fence around the section or parts of any street, sidewalk, or other public place, dug up, obstructed or encumbered, so long as the same shall be unsafe or inconvenient.

(B) Keep one or more lighted lanterns fixed to such fence, or in some other proper manner, every night from twilight in the evening and through the whole night, so long as such railing or fence shall be kept standing.

(C) Repair, within such reasonable time as the Department of Highways shall direct, any street, sidewalk, or public place, to the acceptance of the Board of Highway Commissioners.

('71 Code, § 22-37) Penalty, see § 97.99

Statutory reference:

Authority of city to regulate the digging up of ground in streets or public ways, see R.S.A. 47:17 (VII)

§ 97.37 RAILING OR FENCE REQUIRED FOR EXCAVATION NEAR STREET.

No person shall dig or sink, or cause to be dug or sunk, or permit to remain, any well, cellar, cistern, drain, or other cavity in the ground, near to or adjoining any street or sidewalk in the city, unless he first puts up, and at all times keeps up, a railing or fence, on or near the line of such street, lane, or alley, sufficient to guard and protect travelers and passengers from falling into it or being injured thereby.

('71 Code, § 22-38) Penalty, see § 97.99

§ 97.38 ERECTION OR ALTERATION OF OUTER WALLS.

(A) Any person who intends to erect or to make alterations in the external walls of any building shall, before he proceeds to build or erect the same, or to lay the foundations thereof, or to make the said

alterations, or to do any act for carrying into execution his intention to do such things, give to the Department of Highways at least two days notice in writing of his intention. The notice shall state therein the dimensions of the structure proposed, the materials to be used, the precise location, and the name of the owner in order that and encroachment, injury, or other inconvenience to the public streets, which might otherwise happen, may be thereby prevented.

(B) If any person fails to give notice to the Department of Highways, the city shall be discharged from all liability for damages of any nature whatsoever resulting from the failure to give notice, particularly from all liability for such damages or expenses as have been enhanced or occasioned by reason of anything done previously to or without such notice.

('71 Code, § 22-39) Penalty, see § 97.99

§ 97.39 ATTACHMENTS TO OUTER WALLS.

(A) No appliance fixture, or other type unit or appendage, shall be hung, placed, or fastened to the outer walls of a building or structure, or in the window openings of same, any of which are located above the first story or seven feet above grade and within six feet of a public way and facing same, unless such installation is made in a secure and workmanlike manner with an adequate metal shelf or angle brackets to which the unit shall be fastened and so arranged that it will support the weight of the unit without danger of overturning from any cause.

(B) No such installation shall be made prior to having received a permit for the same from the building commissioner, and no such permit shall be issued unless the owner of the unit in question shall have filed with the Building Commissioner a public liability insurance policy with the same provisions as specified in section 1408.0 of the building code of the city.

('71 Code, § 22-40) Penalty, see § 97.99

Cross-reference:

Building regulations, see Ch. 151

§ 97.40 LAMP RESTRICTIONS.

No person shall place or maintain upon the street frontage of any building in which is located a place of business, one or more incandescent lamps and the fixtures for supporting the same, except that the same may be placed or maintained on streets which are not provided with street lights under the following conditions:

(A) A permit for placing such light or lights shall be obtained from the Building Commissioner and the installation, when made, shall be approved by him.

(B) Each lamp shall be supported by a separate fixture, securely attached to the building.

(C) The overall projection of such lamp or fixture, over the sidewalk, shall not exceed 24 inches, and

no part of said lamp or fixture shall be less than ten feet above the sidewalk.

(D) The lamp, shade, globe, or fixture shall bear no word or marking of any kind.

(E) Should the street, upon which any such light is installed, be provided with special illumination, as specified above, the right to maintain such light shall terminate.

(F) No lights installed as herein provided shall be so arranged as to form any letter, emblem, or device, or in any way to constitute an electric sign, it being expressly understood that the sole purpose of this provision is to afford illumination.

(G) The Building Commissioner may order and effect the removal of any such light or fixture, if in his judgment, the same adversely affects the safety or convenience of the public.

(H) No such installation shall be altered, except with the consent of the Building Commissioner.

('71 Code, § 22-41) Penalty, see § 97.99

§ 97.41 PROTECTION OF CELLAR OR BASEMENT ENTRANCE.

(A) Any entrance or passageway to a cellar or basement in any street or sidewalk in the city shall at all times be either covered by a suitable and substantial platform or grate or, in case it is kept open, it shall be guarded and protected by a sufficient railing, on both sides thereof, at least two and one-half feet high, and well-lighted at night.

(B) No person shall make or maintain any opening in any street or sidewalk opposite the basement windows in any building owned or occupied by him, unless the same shall be covered by a strong iron grate.

(C) No person shall permit the platform or gate of the entrance or passageway to his cellar or basement, in any street or sidewalk, to rise above the surface of such street or sidewalk in the city.

('71 Code, § 22-42) Penalty, see § 97.99

Statutory reference:

*Authority of city to regulate the securing by railings or otherwise
any well, cellar or other dangerous*

place in or near the line of the street, see R.S.A., 47:17

*Authority of city to regulate the erection of posts, signs, steps or
awnings on all streets and public ways,
see R.S.A. 47:17 (VII)*

§ 97.42 BANNERS OVER STREETS PROHIBITED.

No person shall erect or maintain a temporary or permanent banner over and above any street of the city for any purpose whatsoever, except by special license of the Board of Mayor and Aldermen.

('71 Code, § 22-43) (Am. Ord. passed 8-5-86) Penalty, see § 97.99

§ 97.43 RESTRICTIONS ON LOCATION OF FUEL.

No person shall permit his fire-wood, coal, or other fuel, in any quantity, to remain unnecessarily on any sidewalk or street in the city overnight, or after twilight in the evening. If the same must of necessity remain after twilight, or through the night, the owner thereof shall place and keep a sufficient light over or near the same through the night, in order to give notice thereof to travelers and passengers, and thereby prevent injury to them.

('71 Code, § 22-44) Penalty, see § 97.99

OVERPASSES

§ 97.55 OVERPASSES PROHIBITED; EXCEPTIONS

(A) No person shall erect upon any premises, building, or structure abutting a public street in the city, any device designed for the transportation or delivery of any article of merchandise over or across the street.

(B) The Board of Mayor and Aldermen may, subject to the approval of the Public Works Director and the Building Commissioner, permit the erection of enclosed overpasses for the purpose of providing passage or for the transportation of merchandise, materials, or other articles between buildings in industrial districts, when such overpasses may be erected without undue interference with the use of public highways.

('71 Code, § 22-50) Penalty, see § 97.99

§ 97.56 LIABILITY INSURANCE REQUIRED.

No person shall erect an overpass over any street in the city without first filing with the Building Commissioner a public liability insurance policy with the same provisions as specified in section 1408.0 of the building code of the city.

('71 Code, § 22-51) Penalty, see § 97.99

Cross-reference:

Building regulations, see Ch. 151

§ 97.57 REMOVAL.

The Board of Mayor and Aldermen may require the removal of any overpass erected under the authority of this subchapter whenever, in its opinion, upon advice from the Building Commissioner and the Public Works Director, such overpass is no longer being used by the property owner and constitutes a danger or encumbrance to the use of the public street over which it is located.

('71 Code, § 22-52)

§ 97.99 PENALTY.

(A) Any person who violates any provision of this chapter shall be subject to the penalty set forth in § 10.99 of this code.

(B) Any person who shall violate any provision of § 97.34 shall upon conviction thereof be fined not more than \$100. Each day that a violation continues shall constitute a separate offense. ('71 Code, § 22-35(c)) (Am. Ord. passed 7-3-73; Am. Ord. passed 11-20-84; Am. Ord. passed 7-12-90; Am. Ord. passed 2-21-95)

CHAPTER 98: CEMETERIES

Section

- 98.01 Management of cemeteries
- 98.02 Disposition of proceeds from lot sales
- 98.03 Enforcement of interment and disinterment regulations

Cross-reference:

General authority in relation to cemeteries, R.S.A., 47:17 (XV)

Department of Parks, Recreation and Cemetery, § 96.00

§ 98.01 MANAGEMENT OF CEMETERIES.

The cemeteries of the city shall be under the care, supervision, and management of the Department of Parks and Recreation. Duties formerly performed by the Board of Cemetery Trustees shall to the extent authorized by the charter henceforth be performed by the Parks and Recreation Commission.

('71 Code, § 7-1) (Ord. passed 2-17-93)

§ 98.02 DISPOSITION OF PROCEEDS FROM LOT SALES.

The proceeds of the sale of lots in cemeteries shall be paid into the city treasury and a receipt taken for same, and shall be subject to the appropriations of the Board of Mayor and Aldermen for any legal municipal expenditure, except that of the price paid to the City Treasurer for burial lots in any cemetery which shall hereafter be graded and offered for sale, 75% of the purchase price shall be paid by the City Treasurer to the trustees of trust funds, who shall hold, manage, and invest the same in the same manner as other funds in the hands of the trustees are held, managed, and invested and shall authorize expenditure of the net annual income thereof in the payment for watering the burial lots and keeping the grass upon the same cut. The remaining 25% of the price shall be paid into the city treasury.

('71 Code, § 7-2) (Ord. passed 2-17-93)

§ 98.03 ENFORCEMENT OF INTERMENT AND DISINTERMENT REGULATIONS.

It shall be the duty of the Board of Health to see that all laws and ordinances relating to the interment and disinterment of the dead are faithfully executed.

('71 Code, § 12-2)

CHAPTER 99: GRAFFITI

Section

- | | |
|-------|-----------------------------------|
| 99.01 | Purpose and intent |
| 99.02 | Definitions |
| 99.03 | Graffiti declared public nuisance |
| 99.04 | Prohibited conduct |
| 99.99 | Penalty |

§ 99.01 PURPOSE AND INTENT.

The purpose and intent of this chapter is to establish means to prevent, prohibit and remove graffiti from structures and surfaces on public and private property in the city.

(Ord. passed 1-19-99)

§ 99.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AEROSOL PAINT CONTAINER. Any aerosol container which is adapted or made for the purpose of applying spray paint, or other substances capable of defacing property.

FELT TIP MARKER. Any indelible marker or similar implement with a tip which, at its broadest width, is greater than of an inch, containing ink or other pigmented liquid which is not water soluble.

GRAFFITI. Any inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, engraved on or otherwise affixed to or on any surface or structure on public or private property within the city, to the extent such is not authorized by the owner or occupant thereof.

GRAFFITI IMPLEMENT. Any aerosol paint container, a felt tip marker, gum label, paint or graffiti stick, etching tool or any other device capable of scarring or leaving a visible mark on glass, metal, concrete, wood, or any other surface.

PAINT OR GRAFFITI STICK. Any device containing a solid form of paint, chalk, wax, epoxy or other similar substance capable of being applied to a surface by pressure and upon application, of leaving a mark at least of an inch in width.

(Ord. passed 1-19-99)

§ 99.03 GRAFFITI DECLARED PUBLIC NUISANCE.

The Board of Mayor and Aldermen (hereinafter, the “Board”) hereby declares and finds graffiti to be a public nuisance subject to abatement according to the provisions and procedures established herein. Graffiti defaces and damages both public and private property. Moreover, graffiti, whether on public or private property, is often visible to the general public and thereby detracts from the aesthetics of the city.

(Ord. passed 1-19-99)

§ 99.04 PROHIBITED CONDUCT.

(A) No person may apply graffiti to any surface or structure on public or private property within the city.

(B) No person shall possess any graffiti implement with the intent to violate the provisions of division (A).

(Ord. passed 1-19-99) Penalty, see § 99.99

§ 99.99 PENALTY.

Any person violating any provision of this chapter shall be guilty of a violation and may be subject to a fine up to \$1,000. A separate offense shall be deemed committed each day during or on which the violation occurs or continues.

(Ord. passed 1-19-99)